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REPORT

OF THE

Attorney General

OF THE

STATE OF FLORIDA

From January 1, 1915, to December 31, 1916

1917

THOMAS F. WEST

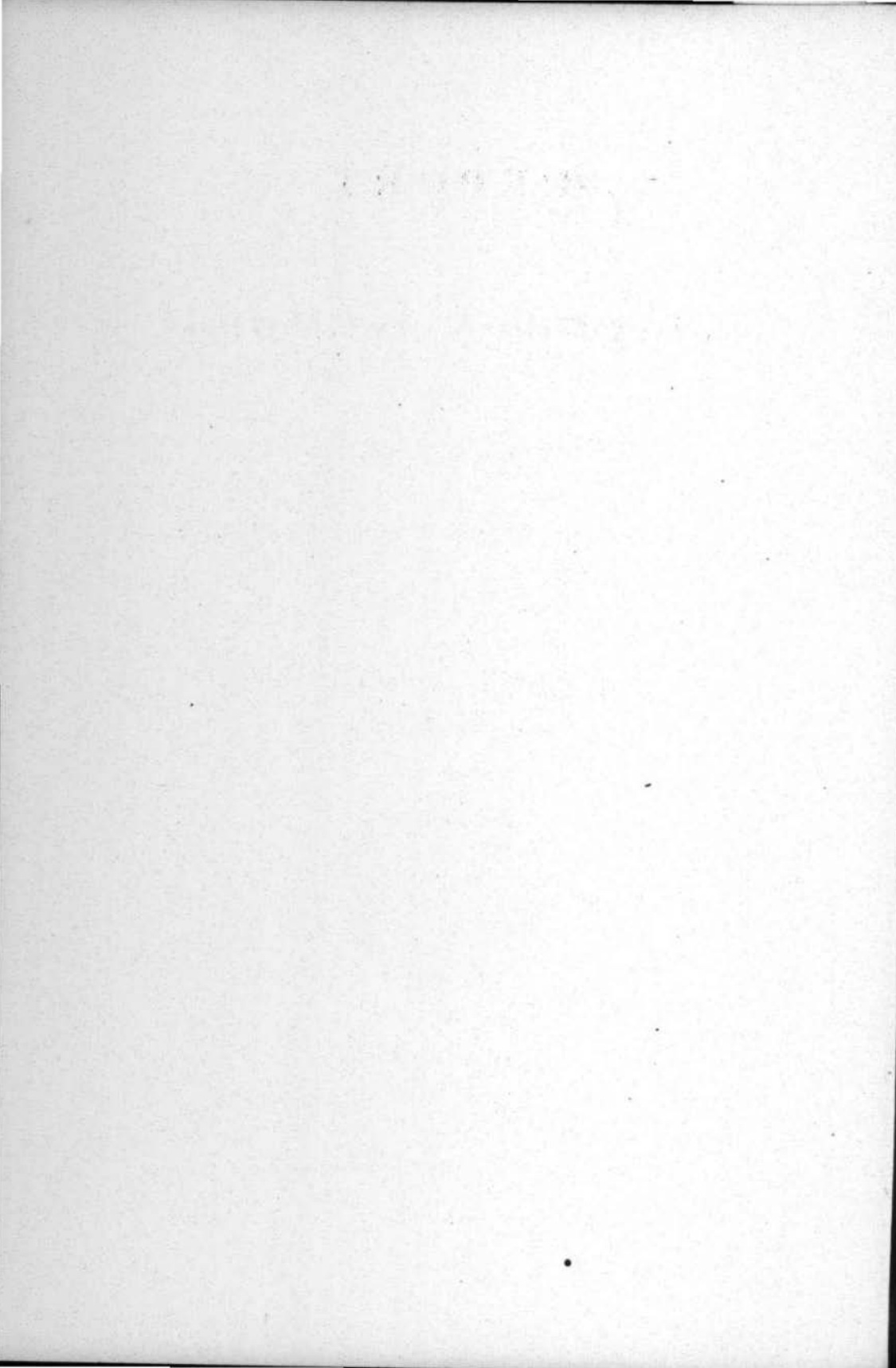
Attorney General



TALLAHASSEE, FLORIDA

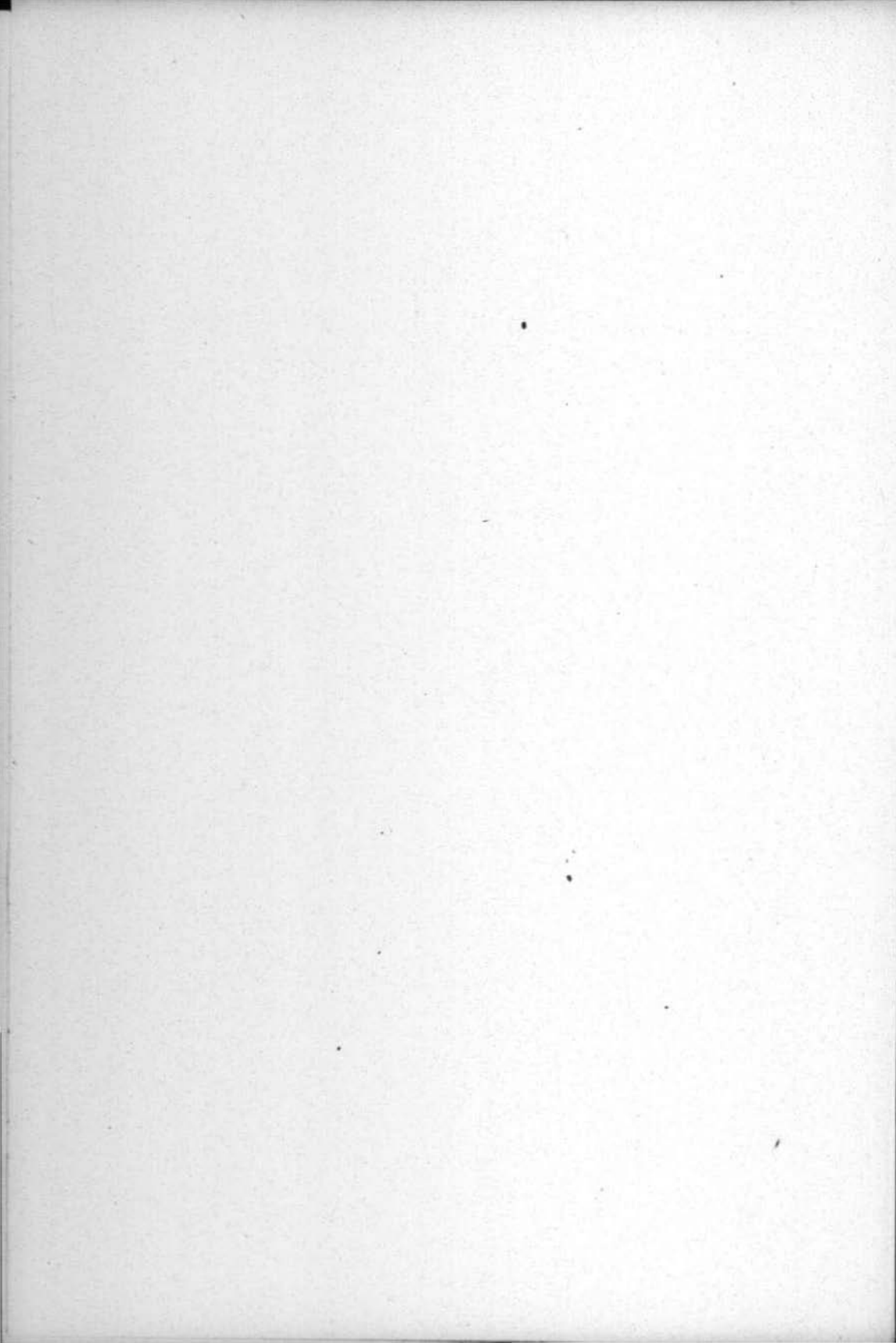
1917

T. J. APPLEYARD, STATE  PRINTER, TALLAHASSEE



LIST OF THOSE WHO HAVE HELD THE OFFICE OF ATTORNEY-GENERAL OF FLORIDA. ---

JOSEPH BRANCH	1845-1846
AUGUSTUS E. MAXWELL.....	1846-1848
JAMES T. ARCHER.....	1848-1848
DAVID P. HOGUE.....	1848-1853
MARION D. PAPY.....	1853-1860
JOHN B. GALBRAITH.....	1860-1868
JAS. D. WESTCOTT, JR.....	1868-186--
A. R. MEEK.....	186--18—
SHERMAN CONANT	18—1871
J. B. C. DREW.....	1871-1872
H. BISBEE, JR.....	1872-1872
J. B. C. EUNNONS.....	1872-1873
WILLIAM A. COCKE.....	1873-1877
GEORGE P. RANEY.....	1877-1885
C. M. COOPER.....	1885-1889
WILLIAM B. LAMAR.....	1889-1901
JAMES B. WHITFIELD.....	1901-1904
W. H. ELLIS.....	1904-1909
PARK TRAMMELL	1909-1913
THOMAS F. WEST.....	1913-1916
THOMAS F. WEST.....	1917—



REPORT OF ATTORNEY GENERAL

STATE OF FLORIDA

ATTORNEY GENERAL'S OFFICE.

Tallahassee, December 31, 1916.

HONORABLE PARK TRAMMELL,
Governor of Florida.

SIR:

In obedience to the constitutional mandate directing each officer of the Executive Department to make full reports of his official acts, of the receipts and expenditures of his office and of the requirements of the same, to the Governor at regular periods, or whenever the Governor shall require it, and in compliance with long established custom by which such reports are made to cover the two calendar years immediately preceding each regular session of the legislature, I have the honor to submit herewith the report of this office covering the period from January 1, 1915, to December 31, 1916, the second two years of my term in the office of Attorney General.

GENERAL SCOPE OF DUTIES.

The constitutional duties of the Attorney General are prescribed by Section 22 of Article IV of the Constitution, as follows:—

“The Attorney General shall be the legal adviser of the Governor, and of each of the officers of the executive department, and shall perform such other legal duties as may be prescribed by law. He shall be reporter for the Supreme Court.”

The duties generally prescribed by statute are found in Section 89 of the General Statutes, as follows:

"The Attorney General shall reside at the seat of government, and shall keep his office in a room in the Capitol; he shall perform the duties prescribed by the Constitution of this State, and also perform such other duties appropriate to his office, as may from time to time be required of him by law, or by resolution of the Legislature; he shall on the written requisition of the Governor, Secretary of State, Treasurer, or Comptroller, give his official opinion and legal advice in writing on any matter touching their official duties; he shall appear in and attend to in behalf of the State, all suits or prosecutions, civil or criminal, or in equity, in which the State may be a party, or in any wise interested, in the Supreme Court of this State; he shall appear in and attend to such suits or prosecutions in any other of the courts of this State, or in any courts of any other State, or of the United States; he shall have and perform all powers and duties incident or usual to such office, and he shall make and keep in his office a record of all his official acts and proceedings, containing copies of all his official opinions, reports and correspondence, and also keep and preserve in his office all official letters and communications to him, and cause a registry and index thereof to be made and kept, all of which official papers and records shall be subject to the inspection of the Governor of the State, and to the disposition of the Legislature by act or resolution thereof."

The Attorney General is also required by numerous statutes to perform other duties, and he is required by common law to exercise certain powers and perform other duties of great public importance not necessary to be herein enumerated.

During the period covered by this report there has at all times existed between all other departments of the State government, officers and board members, and this

office a spirit of friendly and cordial cooperation, and during this period this office has performed all the duties incident to the office and has, in addition thereto, advised all State boards, including the Trustees of the Internal Improvement Fund and Board of Commissioners of Everglades Drainage District, upon legal questions and has represented them in litigated cases so that it has not been necessary to employ other counsel for this purpose.

The Attorney General is not required by law to perform this service for the Trustees of the Internal Improvement Fund, the Board of Commissioners of Everglades Drainage District and various other boards and commissions, but I have done this work in order that the expense of employing counsel for this purpose might be saved to the State.

SERVICE ON BOARDS.

The Attorney General is, by the Constitution and by statute, made a member of the following boards:

Board of Commissioners of State Institutions,
 State Board of Education,
 State Board of Pardons,
 Board of Insurance Commissioners,
 State Canvassing Board.

He is required to act with the Comptroller in passing upon questions arising under the provisions of Chapter 6422, Laws of Florida, commonly called the "Blue Sky Law;" with the Comptroller and the State Treasurer in passing upon the value of securities deposited by trust companies under the provisions of Chapter 6155, Laws of Florida; with the Comptroller and State Treasurer in the matter of assessing railroad properties for taxation; and with the Commissioner of Agriculture in passing upon questions arising under the provisions of the "Pure Food and Drugs Act."

He is also one of the Trustees of the Internal Improvement Fund and a member of the Board of Commissioners of Everglades Drainage District.

Of necessity a great deal of time must be devoted to service on these boards, each of which performs duties of the greatest public importance. In a former report I made the following statement in reference to this matter and I reiterate it here:

"There is, in my judgment, no peculiar reason why the Attorney General should be a member of all these Boards or Commissions, and I respectfully suggest that greater efficiency would be secured if he was relieved from service on at least some of them, and was permitted to devote a greater proportion of his time to the State's law business. As the State grows and develops, the number of legal problems to be solved become greater in number and importance, litigated cases necessarily increase and, unfortunately, a large number of criminal cases come to the Supreme Court for review. Inasmuch as it is the duty of the Attorney General, and his duty alone, to look after the State's interest in all such matters, it is imperative that he be permitted to devote more of his time to them than is now possible."

OFFICIAL OPINIONS.

During the period covered by this report I have, as required by the Constitution and statutes of this State, from time to time, as requested by any of the administrative officers of the Executive Department of the State government, advised them and prepared written opinions for them upon various subjects touching their official duties and powers. Copies of all these opinions are preserved in this office and a number of them are incorporated in this report for the convenient use of such officers and others interested in the subjects covered by them.

In addition to these official opinions, although not expressly required by law to do so, but in order to assist in a proper interpretation and application of the statutes pertaining to their powers and duties, I have, when requested, prepared written opinions for other State officers, State boards and commissions, including the State Auditor, Hotel Commissioner, State Labor Inspector, State Board of Control, State Board of Health, and the Tax Commission. Some of these opinions are also incorporated in this report.

In addition to these written opinions the Attorney General is frequently called into consultation by other officers for legal advice relative to the various questions arising in their respective departments, and no small part of the duties of the office is that devoted to the investigations which are necessary to intelligently and properly advise in such cases. Necessarily much time is devoted to this work but because of its character no record of it can be made.

UNOFFICIAL OPINIONS.

In the report of this office immediately preceding this one the following statement on this subject appears and it may be repeated here:

"This office is not charged with the duty of advising county, municipal and district officers, but, as a matter of courtesy to those making inquiry, and with a view to assisting, when possible, to a uniform administration of the laws regulating the conduct and prescribing the powers and duties of such officers, I have, upon requests therefor, written a large number of what may be termed unofficial opinions. A number of these communications indicating the character and scope of the inquiries, are also incorporated in this report."

All such inquiries are replied to as promptly as the official duties of the office will permit, but it will be understood, of course, that official matters must have first consideration.

COMPILATION OF STATUTES RELATING TO ROADS.

By Section 7 of Chapter 6883, Acts of 1915, Laws of Florida, it is made the duty of the Attorney General to compile the laws of this State relating to public roads for the use of the State Road Department.

This duty has been performed and the compilation made. It has been published and is now ready for distribution.

FORMS FOR HUNTER'S LICENSE, ETC.

By Section 35 of Chapter 6969, Acts of 1915, Laws of Florida, commonly called the "Game Law," the Attorney General was directed to prepare forms for hunter's license and other forms for use under this statute by the boards of county commissioners of the various counties in the State. These forms were promptly prepared and copies furnished to each county as the law requires.

BOND ISSUES EXAMINED FOR THE STATE BOARD OF EDUCATION.

In pursuance of the policy of the State Board of Education to invest such of the State school funds as are available for this purpose in securities issued by counties, municipalities and school and road districts in this State, it has been the duty of this office to examine a number of transcripts of the records of the proceedings had in the issuance of such bonds for the purpose of determining whether or not they were valid and enforceable obligations

of the counties, municipalities or districts. Such issues as are purchased are held by the State Treasurer and it is not necessary to enumerate them here.

ABSTRACTS OF TITLE TO LANDS EXAMINED.

In order to make more compact the tract of land held by the State in Bradford County for the State Prison Farm, it has been the policy of the Board of Commissioners of State Institutions to make exchanges of lands with other land owners in this vicinity for this purpose, and, in making such exchanges, it has been necessary to have examined a number of abstracts of the title to the properties taken in exchange for other lands conveyed, and these examinations have been made by this office.

The office has also examined a number of abstracts of the title to property in which the Trustees of the Internal Improvement Fund and other State boards have been interested.

MONEYS COLLECTED ON ACCOUNT OF TAXES, ETC., DUE THE STATE.

It will be noted from the schedule of civil cases included in this report that judgments have been recovered for the State in various cases amounting to more than Ninety Thousand Dollars (\$90,000). A list of these cases with the amount recovered in each case appears at page 69 of this report.

Practically all of this aggregate amount has been collected through this office and paid into the State treasury.

COSTS COLLECTED.

In the case of Van Deman and Lewis Company, a corporation, et al, complainants v. John W. Rast, Tax Collector of Duval County, et al, defendants, there was col-

lected from the complainants on account of costs awarded against them in the Supreme Court of the United States the sum of One Hundred Forty-three and 50/100 Dollars (\$143.50). This amount was also paid into the State treasury.

OTHER MONEYS PAID INTO THE STATE TREASURY.

Under a Federal statute it is provided that the successful party in suits in the Supreme Court of the United States shall recover from the losing party his costs, which shall include an attorney fee of Twenty Dollars (\$20) in each case. This amount has been paid to me in each of four cases in which I have represented the prevailing party in that court, and, while it has not been paid to me officially and would have been paid to any other attorney representing the prevailing party in such cases, it was received as a result of my appearing as counsel in the cases and I have, therefore, paid these several amounts, aggregating Eighty Dollars (\$80), into the State treasury.

ATTORNEY FOR TRUSTEES OF INTERNAL IM- PROVEMENT FUND AND BOARD OF COM- MISSIONERS OF EVERGLADES DRAINAGE DISTRICT.

During the period covered by this report this office has acted as attorney for the Trustees of the Internal Improvement Fund and the Board of Commissioners of Everglades Drainage District, and during this time no moneys have been paid out by the Trustees or the Drainage Board for the employment of counsel in any litigated case, for the drawing of the various agreements and contracts made by them, or otherwise.

Prior to this time special counsel has been employed to do this work.

STATE STATUTES TESTED IN THE SUPREME COURTS.

By reference to the schedules of cases which have had the attention of this office during the period covered by this report it will be observed that the constitutional validity of a number of State statutes upon important subjects have been challenged and tested by appropriate court proceedings.

Among the statutes so tested is Chapter 6537 of the Acts of 1913, the general road law of this State passed upon in the case of *Butler v. Perry*, 240 U. S. 328. This was an important case because it involved the question of the power of the State to require certain citizens of the State to perform labor upon the public roads of the State for the purpose of maintaining such roads for the public benefit.

In the case of *Van Deman and Lewis Company, a corporation et al. v. John W. Rast, Tax Collector et al.*, 240 U. S. 342, the validity of the provisions of Section 35 of Chapter 6421, Acts of 1913, commonly called the "Coupon License Tax," was tested and held valid by the Supreme Court of the United States. This was an important question because it dealt with the power of the State to regulate this practice, and the Supreme Court of the United States held that the State had such power, although the supreme courts of a number of the states had held to the contrary when similar statutes were before them for consideration.

In the case of *the Pullman Company v. Knott*, 235 U. S. 23, and 70 Fla. 9, the Supreme Court of the United States and the Supreme Court of Florida held that the gross receipts tax imposed upon sleeping and parlor car companies was a valid tax under the Constitution of Florida and should be paid by such companies. This was an im-

portant case because it settled the principle that a tax upon public service corporations in this State, measured by gross receipts, is valid and enforceable.

In the case of *Ex parte Edward H. Clarkson*, 70 Fla. 340, the Supreme Court held the Game Law of the State, passed at the regular session of the Legislature in 1915, valid and enforceable.

In the case of *Florida Construction and Realty Company, complainant, v. Florida Railway Company, defendant, William V. Knott, Comptroller, intervener*, 72 Fla. —, the Supreme Court affirmed a judgment of the Circuit Court holding valid and enforceable the statutes of this State regulating the assessment of properties for the purpose of taxation of railroad companies in this State and providing for the collection of such tax.

In the case of *State ex rel Luning, State Treasurer, et al, v. R. G. Johnson et al.*, as County Commissioners of Leon County, 71 Fla. 363, the provisions of Chapter 6883, Laws of Florida, requiring the counties in this State to pay over to the State Treasurer for the use of the State Road Department 15 per cent of the license tax imposed and collected from owners or operators of automobiles and other motor driven vehicles in this State, was held valid and enforceable.

In the case of *J. W. Jackson et al. v. E. S. Cravens, Supervising Inspector of Naval Stores, et al.*, 235 Fed. Rep 212, Chapter 6878, Laws of Florida, commonly called the "Pure Spirits of Turpentine Act," providing generally for the inspection of naval stores produced in this State, was held valid and enforceable.

In the case of *Ex parte Guiseppe Gilletti et al.*, 70 Fla. 444, the provisions of Chapter 6877, Acts of 1915, requiring aliens to pay a license tax for taking and removing oysters from the public oyster beds of this State, was held valid and enforceable.

In the case of *Ex parte Thomas Powell*, 70 Fla. 363, Chapter 6877, Acts of 1915, imposing a license tax on

those using boats of certain dimensions in taking fish from certain waters of this State, was held valid and enforceable.

In the case of *Ex parte Adolph Pricha*, 70 Fla. 265, Chapter 6860, Acts of 1915, commonly called the "Davis Package Law," regulating the method of handling intoxicating liquors, wines and beer, by retail dealers in this State, was held valid and enforceable.

This list does not include all the cases of this kind that have been considered by the courts. It is given here for the purpose of illustrating the character and importance of some of the litigation which has had the attention of this office.

Other cases of similar character will be noted in this report under the Schedules of Cases.

CIVIL CASES.

Under the title Schedule of Civil Cases report is made of the civil cases which have had attention. It will be noted that there are more than twice as many of these cases, than have appeared in any previous report for a similar period.

Because of their importance I make special reference to two of these cases here.

1. *Gross Receipts Tax Case:*

By the decision of the Supreme Court of the United States in the case of the *Pullman Company v. Knott*, Comptroller, 235 U. S. 23, and the decision of the Supreme Court of the State in the case of the *Pullman Company v. Knott*, Comptroller, 70 Fla. 9, it would seem to be definitely settled that the principle of taxation of public service corporations in this State measured by the annual gross receipts of such corporations is sound and that statutes of this State imposing such a tax are valid and enforceable.

These cases are perhaps the most important which have had the attention of this office during the period covered by this report. Involved in them was not alone the question of the validity of the tax imposed upon sleeping and parlor car companies, but the principle of taxation in this State on the basis of annual gross receipts upon business done in the State by public service corporations was the real question presented, and this was a question of very great importance for the reason that from the tax of this kind imposed upon insurance companies, express companies, and sleeping and parlor car companies, the State receives each year more than One Hundred and Seventy-five Thousand Dollars (\$175,000). If the decisions of the courts in the Pullman Company cases had been against the contention of the State, it would have followed that the State would have lost not only the tax paid annually by the Pullman Company, but the tax of the same character paid by other public service corporations in this State upon which such tax is imposed.

Inasmuch as this report is required by the Constitution to be laid before the legislature at its regular session to be held during the months of April and May of next year, I deem it proper to recommend here that the legislature carefully consider the question of passing a statute imposing an annual gross receipts tax upon railroad companies and other public service corporations doing business in Florida similar to the tax imposed upon insurance companies, sleeping and parlor car companies and express companies.

2. *Coupon License Tax Case:*

Another case of primary importance which has had the attention of this office during the period covered by this report is that of Van Deman and Lewis Company, a corporation, et al., complainants, v. John W. Rast, Tax Collector of Duval County, et al., defendants.

This was a suit brought by certain wholesale and retail

merchants in the State against all of the tax collectors in all of the counties in Florida and all of the prosecuting officers in all of the criminal courts in Florida to restrain and enjoin all such officers from taking any action or proceedings looking to the collection of the tax imposed by the provisions of Section 35 of Chapter 6421, Laws of Florida, commonly called the "Coupon License Tax."

Upon application to three Federal Judges, namely, Circuit Judge Shelby and District Judges Sheppard and Call, under the provisions of Section 266 of the Judicial Code of the United States, this statute was held to be unconstitutional and, therefore, unenforceable, and an order was made by the court enjoining the defendants as prayed in the bill of complaint and effectually tying their hands so that no action could be brought in any State court in Florida for the purpose of testing the validity of this act in the courts of the State.

In my view of this case this was in substance and effect a suit against the State of Florida and operated to prevent the courts of the State from considering the question of the validity of a statute duly and regularly passed by the legislature of the State.

I was unwilling to concede that one Federal Judge or three Federal Judges had any such power and, while I realized that the statute was probably unpopular, I conceived it to be my duty, as the chief law officer of the State, to submit the question to the Supreme Court of the United States and I, therefore, appealed from the order of the three Federal Judges to the Supreme Court of the United States where, upon consideration of the case (240 U. S. 342), that court reversed the judgment of the court below and held the statute to be a proper exercise of the legislative discretion of the State and, therefore, valid and enforceable.

CRIMINAL CASES.

The Attorney General represents the State in the Supreme Court of the State in all criminal cases and in all habeas corpus proceedings.

Briefs on behalf of the State have been prepared and filed in the Supreme Court in all such cases and oral arguments on behalf of the State have been made in all of them in which oral arguments were requested and made by counsel for the plaintiffs in error.

During the period covered by this report briefs in cases of this character were prepared and filed in the Supreme Court in 101 cases. Of these, judgments of the trial courts were reversed in 28 cases and affirmed in 73 cases.

PUBLISHING ACTS AND RESOLUTIONS OF THE STATE LEGISLATURE.

The acts and resolutions of the legislature of this State for the regular session of 1915 were published, with marginal abstracts, as required by law, under the direction of this office. For convenient use these acts and resolutions were published in two volumes, as was done in 1913, the general laws being placed in Volume 1 and the special and local laws in Volume 2.

An index to each of these volumes and an index to the Journals of each branch of the legislature were also prepared under the direction of this office, the index to the Journals having been prepared as provided by Chapter 6436, Acts of 1913, Laws of Florida.

REPORTER FOR THE SUPREME COURT.

The Attorney General is the Reporter for the Supreme Court.

During the period covered by this report four volumes of the opinions of the court have been published, namely,

68, 69, 70 and 71. The number of opinions in these volumes are as follows: Volume 68, civil, 147 cases, criminal, 41 cases; Volume 69, civil, 97 cases, criminal, 23 cases; Volume 70, civil, 66 cases, criminal, 31 cases; Volume 71, civil, 63 cases, criminal, 18 cases; total, 486 cases.

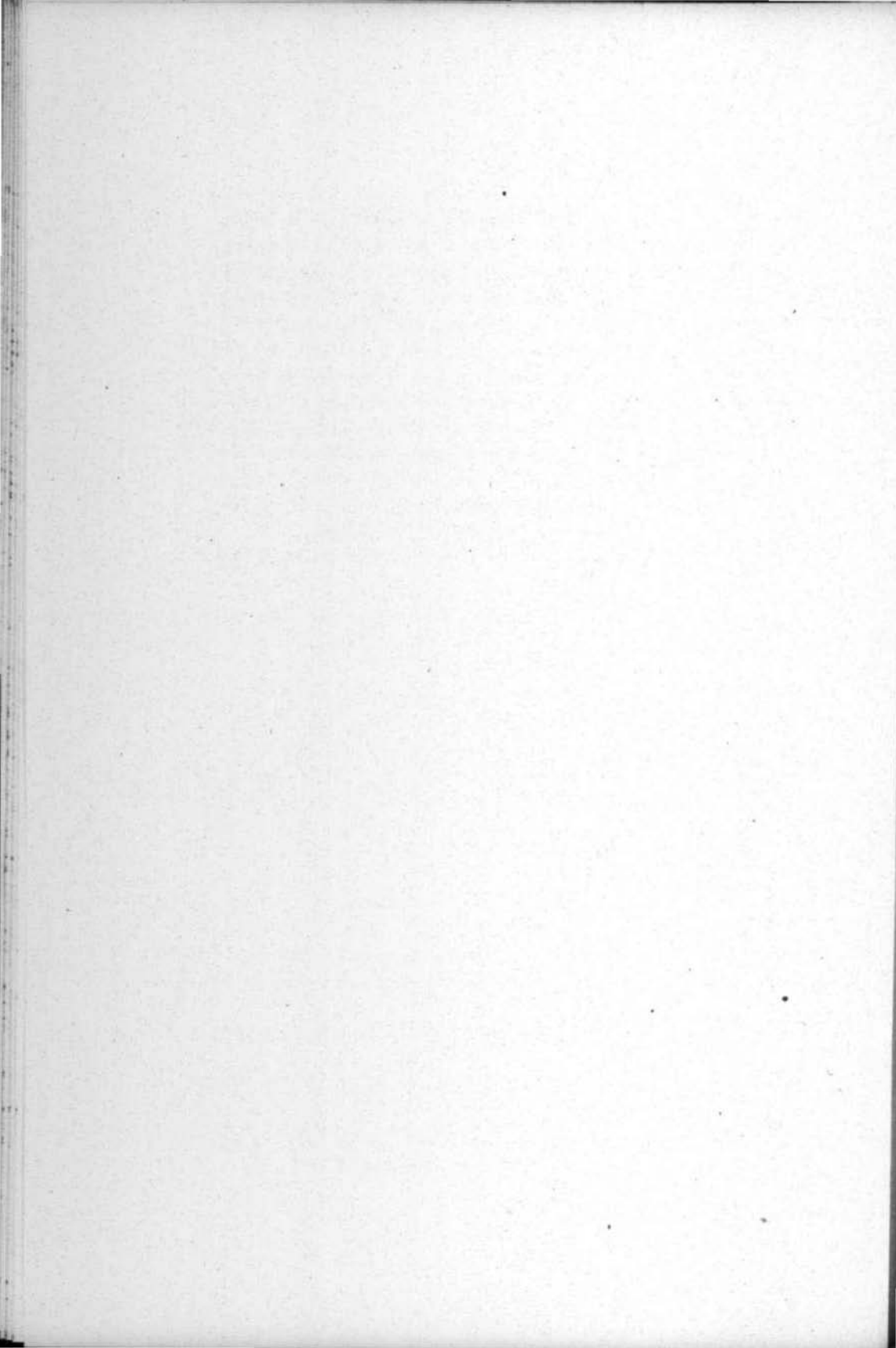
It goes without saying that a great degree of care must be exercised in this work, as the opinion filed by the court is expected to be accurately reproduced in the reports.

An index-digest and a table of cases are also prepared as a part of each volume of these reports.

Respectfully submitted,

THOMAS F. WEST,

Attorney General.



APPROPRIATIONS AND EXPENDITURES

Appropriations.

First six months, 1915—

Assistant	\$ 1,200.00
Clerk	600.00
Incidental expenses	300.00
Purchase of books.....	125.00

For last six months, 1915—

Assistant	1,250.00
Assistant	1,200.00
Clerk	600.00
Stenographer	540.00
Incidental expenses	300.00
Purchase of books.....	1,000.00

For the year 1916—

Assistant	2,500.00
Assistant	2,400.00
Clerk	1,200.00
Stenographer	1,080.00
Incidental expenses	600.00
Purchase of books.....	500.00

Expenditures.

Assistant for years 1915-1916.....	\$ 4,950.00
Assistant for years 1915-1916.....	3,600.00
Clerk for years 1915-1916.....	2,400.00
Stenographer for years 1915-1916.....	1,620.00
Incidental expenses for years 1915-1916..	2,263.29
Purchase of books for years 1915-1916....	1,595.01

STATEMENT OF INCIDENTAL EXPENSE FUND.

Amount brought forward January 1,		
1915	\$1,075.93	
Appropriation for first six months,		
1915	300.00	
Appropriation for last six months,		
1915	300.00	
Appropriation for year 1916.....	600.00	
Total in fund		\$2,275.93
Expended during year 1915.....	\$1,053.27	
Expended during year 1916.....	1,210.02	
Total amount expended.....		\$2,263.29
Balance to credit of fund.....		\$ 12.64

STATEMENT OF APPROPRIATION FOR PURCHASE
OF BOOKS.

Amount brought forward January 1,		
1915	\$ 4.62	
Appropriation for first six months,		
1915	125.00	
Appropriation for last six months,		
1915	1,000.00	
Appropriation for year 1916.....	500.00	
Total in fund.....		\$1,629.62
Expended during year 1915.....	\$1,123.12	
Expended during year 1916.....	471.89	
Total amount expended.....		\$1,595.01
Balance to credit of fund.....		\$ 34.61

ITEMIZED STATEMENT.

*Of Expenditures of Attorney General from Appropriation
for Incidental Expenses.*

1915.

January	—Alex McDougall, Postmaster, box rent and postage due.....\$	1.06
	Western Union Telegraph Company, messages	3.88
	The Falconier Company, cover folders	8.50
	Southern Express Company, express charges	.64
	Allie Yawn, copy testimony case Gaillard v. Lewis.....	2.50
	T. L. Clarke, witness fees case Gail- lard v. Lewis.....	3.50
	T. F. West, expenses trip to Gaines- ville, case King Lumber Co. v. Board of Control.....	27.27
February	—Alex McDougall, Postmaster, en- velopes	150.20
	Strickland & Shields, premium on appeal bond, case Van Deman and Lewis Company v. Rast, Tax Col- lector	12.50
	Northwestern University Law Pub. Assn., subscription to Journal of Criminal Law	3.00
	H. & W. B. Drew Company, docket and rubbers	5.95
	Southern Express Company, express charges	.25
	Western Union Telegraph Company, messages	6.81

1915.

	Southern Office Supply Company, file case, folders and pads.....	27.00
	Dan Allen, freight paid and drayage	1.73
	Western Union Telegraph Company, messages	3.38
	T. F. West, expenses of trip to Marianna	6.06
March	—Southern Express Company, express charges	.38
	T. J. Appleyard, Columbia clasp envelopes	4.80
	Alex McDougall, Postmaster, stamps	31.18
April	—Geo. D. Barnard & Co., stationery..	38.78
	Alex McDougall, Postmaster, box rent and stamps.....	11.08
	J. F. Hill, stationery.....	2.30
	Western Union Telegraph Company, messages	3.01
	D. R. Cox Furniture Co., book cases.	17.75
	T. J. Appleyard, index sheets and cards for indexing.....	21.25
	J. W. Corbett, office chair.....	9.00
May	—Western Union Telegraph Company, messages	6.72
June	—Western Union Telegraph Company, messhage	2.94
	Dan Allen, drayage.....	.50
July	—Dan Allen, drayage.....	.25
	Geo. D. Barnard & Co., pencil sharpener, and postage.....	1.14
	J. W. Corbett, hat rack for office..	2.00
	Frank Sheppard Company, subscrip- tion to Sheppards Annotations...	4.00
	Western Union Telegraph Company, messages	3.45

1915.

	Alex McDougall, Postmaster, box rent	1.00
	Dan Allen, freight paid, and drayage	2.29
	Dan Allen, drayage.....	.50
	T. F. West, expenses of trip to Milton in case State v. Roberts et al.....	17.13
August	—Western Union Telegraph Company, messages	9.23
	D. R. Cox Furniture Co., book cases	69.75
	J. F. Hill, ledger.....	2.50
	Alvah Bushnell Co., paper wallets.	23.00
	Dan Allen, freight and drayage...	.75
September	—D. R. Cox Furniture Co. typewriter desk	15.00
	Sou. Express Co., exp. charges.....	5.07
	Western Union Tel. Co., messages..	4.83
	Dan Allen, drayage.....	.25
	Geo. D. Barnard Co., difference in pencil sharpeners	1.67
	T. F. West, expenses of trip to Clearwater in case State vs. Mendenhall	29.59
October	—A. McDougall, box rent and postage	1.18
	Western Union Tel. Co., messages..	3.57
	Dan Allen, freight paid and drayage	1.56
	T. F. West, expenses of trip to Jacksonville in case Jackson et al. v. Cravens et al.	15.80
November	—Keystone Supply Co., carbon paper and typewriter cushions.....	19.00
	J. W. Corbett, 6 rugs for office.....	60.00

1915.

Southern Office Supply Co., file case and folders	24.40
Western Union Tel. Co., messages..	10.70
D. R. Cox Furniture Co., book cases and exchange of bases.....	66.00
Chairs for office.....	16.25
T. F. West, expenses of trip to Jacksonville in case of Jackson et al. v. Cravens et al.	5.75
Southern Office Supply Co., file case top	3.50
H. R. Kaufman, ink stand and carbon paper	1.00
T. J. Appleyard, letter second sheets	3.00
T. F. West, expenses of trip to Jacksonville in case Jackson et al. v. Cravens et al.....	12.30
Seaboard Air Line Railway, mileage books	40.00
December —Western Union Tel. Co., messages..	11.46
T. J. Appleyard, typewriter paper.	5.20
A. McDougall, postmaster, stamps.	5.10
Dan Allen, drayage.....	.50
T. J. Appleyard, printing 100 copies brief in case Jackson et al. v. Cravens et al.....	139.68

1916.

January —T. J. Appleyard, typewriter paper..	2.60
Western Union Tel. Co., messages..	5.83
Sou. Express Co., express charges..	.76
Alex McDougall, Postmaster, box rent and stamps.....	1.14
H. A. Bowles, sheriff, serving motion to dismiss case of Barrentine v. State	2.10

1916.

	Underwood Typewriter Co., exchange of typewriters.....	33.03
	T. J. Appleyard, printing 50 copies brief in case of Butler v. Perry, Supreme Court, U. S.....	20.70
	Typewriter paper	2.40
	Alex McDougall, Postmaster, envelopes and stamps.....	66.44
	Sou. Express Co., express charges..	.98
February	—Western Union Tel. Co., messages..	12.27
	J. W. Corbett, filing cabinets and index	76.50
	W. H. Dowling, sheriff, serving motion to dismiss in case of John Toees v. State.....	.95
	H. & W. B. Drew Co., carbon paper	1.08
March	—J. F. Hill, 6 doz. pencils.....	3.00
	Sou. Express Co., express charges..	.60
	Western Union Tel. Co., messages..	4.09
	T. F. West, expenses of trip to Pensacola; to confer with local officers in re. prosecution under Chapter 6877, Acts of 1915.....	17.70
	Simon Singer, scrap book for office.	1.75
	E. R. Williams, Clerk U. S. Court, copy opinion in case Jackson et al. v. Cravens et al.....	5.00
April	—T. J. Appleyard, printing 300 copies brief and opinion in case Butler v. State	23.00
	Typewriter paper	5.80
	Envelopes	2.25
	Alex McDougall, Postmaster, box rent and stamps.....	11.12
	Western Union Tel. Co., messages..	21.54
	D. Appleton & Co., Am. Year Book.	3.00

1916.

	D. R. Cox Furniture Co., chair seat	.25
	book cases	63.00
	Supt. Public Documents, statement of Land Grants made by Congress	.20
	Map of the United States.....	1.00
	Julius Drew, 4 sets Annotation labels	8.00
	Geo. D. Barnard & Co., stationery..	18.90
	Banks Law Publishing Co., copy of advance sheets	.35
	Dan Allen, freight paid and drayage	1.06
May	—J. F. Hill, Bible, box files, whisk broom for office.....	6.50
	T. J. Appleyard, typewriter paper..	3.50
	Western Union Tel. Co., messages..	12.73
	Sou. Express Co., express charges..	.31
	H. A. Bowles, Sheriff, serving mo- tion to dismiss case of ex parte James W. Moneyham.....	5.10
	Sou. Office Supply Co., file case and guides	25.50
June	—Dan Allen, frt. paid and drayage...	2.30
	T. J. Appleyard, typewriter paper.	5.80
	Western Union Tel. Co., messages..	6.81
	W. H. Marshall, Clk. Circuit Court, costs and copy of judgment in case Trammell <i>et al.</i> v. Carr <i>et al.</i>	4.35
	T. F. West, expenses of trip to Jack- sonville, in re. alleged combina- tion of Ice Manufactories.....	15.55
	Alex McDougall, Postmaster, box rent and stamps	1.08
July	—Western Union Tel. Co., messages...	45.36
	H. & W. B. Drew Co., stationery...	1.76
	Dan Allen, frt. paid and drayage...	3.22

1916.

August	—Geo. D. Barnard & Co., letter-heads, less freight and storage.....	42.22
	D. J. Pickle, certified copy petition case of State of Texas v. National Cotton Oil Co.....	2.50
	Sou. Telephone & Construction Co., long distance message.....	1.30
	T. J. Appleyard, binding copy Acts 1907	1.50
	Envelopes and typewriter paper.	7.05
	Franklin West, work searching for books in basement of Capitol....	9.00
	Alex McDougall, Postmaster, envel- opes and stamps.....	117.28
	Western Union Tel. Co., messages..	1.23
	B. F. Willis, tablets, paper and expr.	6.85
	Southern Office Supply Co., folders and postage	1.16
	W. H. Dowling, Sheriff, serving mo- tion to dismiss case of Will Tur- ner v. State.....	.95
	T. F. West, expenses of trip Miami, in re. Inspecting Florida East Coast Canal	35.95
September	—Sou. Express Co., express charges..	.31
	T. J. Appleyard, typewr. paper....	2.60
	Western Union Tel. Co., messages..	4.62
October	—George I. Davis, Postmaster, box rent and stamps.....	6.00
	Franklin West, work searching for books in basement of Capitol....	15.50
	Western Union Tel. Co., messages..	2.56
	T. J. Appleyard, binding Acts 1907.	1.50
	H. & W. B. Drew Co., chair pad and postage	1.33

1916.

November — J. F. Hill, 6 doz. pencils.....	3.00
D. R. Cox Furn. Co., book cases....	103.50
T. J. Appleyard, typewriter paper..	7.80
Western Union Tel. Co., messages..	6.27
G. F. & A. Ry. Co., frt. on books....	13.51
Dan Allen, drayage.....	.50
G. I. Davis, P. M., stamps.....	5.00
T. F. West, expenses trip to Jackson- ville, Ice Trust.....	15.60
December — T. J. Appleyard, printing 50 copies brief on merits in case Jackson <i>et</i> <i>al.</i> v. Cravens <i>et al.</i> Printing 50 copies brief on motion to dismiss case Jackson <i>et al.</i> v. Cravens <i>et al.</i>	182.46
Western Union Tel. Co., messages..	12.16
Southern Exp. Co., express charges.	1.85
Seaboard Air Line Ry., mileage book	20.00
T. F. West, expenses trip to New Or- leans, in re. Jackson <i>et al.</i> v. Crav- ens <i>et al.</i>	15.20
Columbia Law Review, subscription	2.50
Sou. Tel. & Const. Co., long distance message with E. J. L'Engle, Jack- sonville	1.00

ITEMIZED STATEMENT

*Of Expenditures from the Appropriation for the Purchase
of Books.*

1915.

January — Banks Law Publishing Co., cash pay- ment on U. S. Digest, 7 volumes..\$	9.50
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1915.

	Matthew Bender & Co., 3 Installments on books, per invoice January 21, 1914, at \$10.00 each...	30.00
	Lawyers Co-Operative Pub. Co., 51	
	1 R. A. (N. S.).....	4.00
	4 R. C. L.....	6.50
	West Pub. Co., 65 Sou. Reporter...	4.00
February	—Matthew Bender & Co.	
	Bender's War Revenue.....	2.00
	Bal. on invoice Jan. 21, 1914....	3.50
June	—Lawyers Co-Op. Publishing Co.	
	52 L. R. A. (N. S.).....	4.00
	5 R. C. L.....	6.50
	6 R. C. L.....	6.50
	American Law Book Company.	
	1 Corpus Juris.....	7.50
	2 Corpus Juris.....	7.50
	West Publishing Co.	
	Southern Digest (61-65).....	1.00
	Installment on books, invoice Apr. 1, 1914, Decennial Digest.....	25.00
	Legal Pub. Co., Judicial Code U. S..	1.00
July	—West Publishing Co.	
	Installment on Decennial Digest.	25.00
	66 Southern Reporter.....	4.00
	Fla. Compiled Laws, 1914, 3 vols.	18.00
	Bank Laws Publishing Co.	
	235 U. S. Reports.....	3.00
	236 U. S. Reports.....	3.00
	237 U. S. Reports.....	3.00
	The Bobbs-Merrill Co.	
	Volume 2 Wurt's Digest.....	8.00
	Lawyer's Co-Operative Pub. Co.	
	Subscript'n to Case and Comment	2.00
	1915-A L. R. A.....	4.00
	1915-A L. R. A.....	4.00

1915.			
	7 R. C. L.....	6.50	
	Sup. to L. R. A. Index to Notes..	1.00	
	West Publishing Co.		
	18 American Digest (KNS).....	6.00	
	T. H. Flood & Co.		
	9 to 24, inc. A. & E. Anno. Cases.	40.00	
	Baker, Voorhis & Co.		
	Curtis' Manual of Sherman Law.	3.50	
	John T. Crawley, Copy of Rules....	3.00	
August	—Lawyers Co-Operative Pub. Co.		
	1915-C L. R. A.....	4.00	
	West Publishing Co.		
	Insallment on Decennial Digest..	25.00	
	Interest on above.....	.87	
	67 Southern Reporter.....	4.00	
	19 American Digest (KNS).....	6.00	
	Lawyers Co-Operative Pub. Co.		
	8 R. C. L.....	6.50	
September	—Callaghan & Co.		
	Set Southwestern Rep., vols. 1-84		
	Set Northeastern Rep., vols. 1-107	337.00	
	Encyclopaedia of Forms, 18 vols.	40.00	
	T. H. Flood & Co.		
	Wharton's Criminal Pleading and Practice; Wharton on Homicide; Bishop's New Criminal Procedure; Puterbaugh's Common Law Pleading; Puterbaugh's Chancery Pleading	35.00	
	Abbott's Public Securities.....	7.50	
	West Pub. Co., 108 N. E. Reporter..	4.00	
	Central Law Journal, subscription.	5.00	
October	—West Publishing Co.		
	Installment on Decennial Digest.	25.00	
	Lawyers Co-Operative Pub. Co.		
	1915-D L. R. A.....	4.00	

1915.

	American Law Book Co.	
	3 Corpus Juris.....	7.50
	West Pub. Co., 68 Sou. Reporter....	4.00
	Lawyers Co-Operative Pub. Co.	
	Dig. to L.R.A. (N.S.) 2 vols.....	10.00
November	—Banks Pub. Co., 238 U. S. Reports.	3.00
	West Publishing Co.	
	151, 152 N. W. Reporter.....	7.50
	Cash paym't on Words & P. 2nd ed	5.00
	Lawyers Co-Operative Pub. Co.	
	9 R. C. L.....	6.50
December	—West Pub. Co., 153 N. W. Reporter.	3.75
	T. H. Flood & Co.	
	Set N. W. Reporters, vols. 1-150..	240.00
	L. D. Powell & Co.	
	Vols. 1 to 12 Std. Ency. Proceed...	72.00

1916.

January	—West Publishing Co.	
	Installment on Decennial Digest.	25.00
	20 American Digest (KNS).....	6.00
	85 Southeastern Reporter.....	4.00
	Lawyers Co-Operative Pub. Co.	
	1915-E L. R. A.....	4.00
	Journal of the Amer. Institute of Criminal Law and Criminology, subscription	3.00
	Lawyers Co-Operative Pub. Co.	
	1915-F L. R. A.....	4.00
	Banks Law Publishing Co.	
	Balance on U. S. Digest.....	40.00
February	—F. H. Thomas Law Book Co.	
	High Ex. Legal Remedies.....	4.50
	Johns Hopkins Press.	
	Clark—Constitutional Doctrine of Justice Harlan	1.25

1916.

	Flack—Adoption of the Fourteenth Amendment	2.00
	West Publishing Co.	
	Inst. on Words and Phr., 2nd ed.	15.00
	109 N. E. Reporter.....	4.00
	Government Printing Office.	
	Fed. Anti Trust Decision, 4 vols..	4.00
	F. H. Thomas Law Book Co.	
	Thayer's Jur. of Federal Courts.	2.50
	Lawyers Co-Operative Pub. Co.	
	10 R. C. L.....	6.50
	American Law Book Co.	
	6 Corpus Juris.....	7.50
	Vernon Law Book Co.	
	Perry on Trusts, 2 vols., \$13.00;	
	Farnham on Waters, 3 vols., \$12.00; Bailey on Habeas Corpus,	
	2 vols., \$12.00; Cooley on Taxation, \$7.50; Less discount \$4.50..	40.00
	Harvey's and Bradford's Federal Trade Commission	5.00
	John Byrne & Co.	
	Fleming, Synonyms, etc.	1.40
	West Publishing Co.	
	69 Southern Reporter.....	4.00
	86 S. E. Reporter.....	4.00
March	—West Publishing Co.	
	Blue Book, Southern Reporter...	2.50
	Blue Book, Northwestern Rep....	2.50
	Blue Book, Northeastern Rep....	2.50
	Baker, Voorhis & Co.	
	Willoughby, Constitution, 2 vols.	12.00
	Amer. Law Book Co.	
	1916, Anno. Cyc. and Corp. Juris	8.00

1916.

	West Publishing Co.	
	Installment on Decennial Digest	25.00
	154 N. W. Reporter.....	4.00
April	—Lawyers Co-Operative Pub. Co.	
	1916-A L. R. A.....	5.00
	Banks Law Publishing Co.	
	239, 240 U. S. Reports.....	6.00
April	—West Publishing Co.	
	Broome's Kent's Commentaries..	4.00
	American Law Book Company.	
	6 Corpus Juris.....	7.50
	Lawyers Co-Operative Pub. Co.	
	11 R. C. L.....	6.50
May	—West Publishing Co.	
	Balance on Words and Phrases,	
	2d ed.	7.75
	110 N. E. Reporter.....	4.00
	155 N. W. Reporter.....	4.00
	W. H. Anderson & Co.	
	Walker's Errors in Criminal Pro-	
	cedure	5.00
June	—Lawyers Co-Operative Pub. Co.	
	1916-B, L. R. A.....	5.00
	12 R. C. L.....	6.50
	American Law Book Co.	
	4 Corpus Juris.....	7.50
	West Publishing Co.	
	Balance on Decennial Digest.....	31.00
	87 S. E. Reporter.....	4.00
	21 American Digest (KNS).....	6.00
	Little, Brown & Co.	
	Tucker's Treaty Making Power..	5.00
August	—West Publishing Co.	
	Blue Book, Southeastern Reporter	2.50
	American Law Book Co.	
	7 Corpus Juris.....	7.50

1916.

Frank Sheppard Company.

Subscription to Sheppard's Annotations	4.00
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Lawyers Co-Operative Pub. Co.

1916-C, L. R. A.....	5.00
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13 R. C. L.....	6.50
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L. D. Powell Company.

13 Standard Encyclopedia of Procedure	6.00
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September—West Publishing Co.

70 Southern Reporter.....	4.00
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111 N. E. Reporter.....	4.25
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156 N. W. Reporter.....	4.25
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157 N. W. Reporter.....	4.25
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88 S. E. Reporter.....	4.25
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October —Central Law Journal.

Subscription	5.00
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November—Banks Law Publishing Co.

241 U. S. Reports.....	3.00
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American Law Book Company.

8 Corpus Juris.....	7.50
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Lawyers Co-Operative Pub. Co.

1916-D, L. R. A.....	5.00
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14 R. C. L.....	6.50
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December—L. D. Powell Co.

14 Standard Ency. Proc.....	6.00
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West Publishing Co.

Cash installment on set

Federal Reporter, Vols.

1-233	\$25.00
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1916.

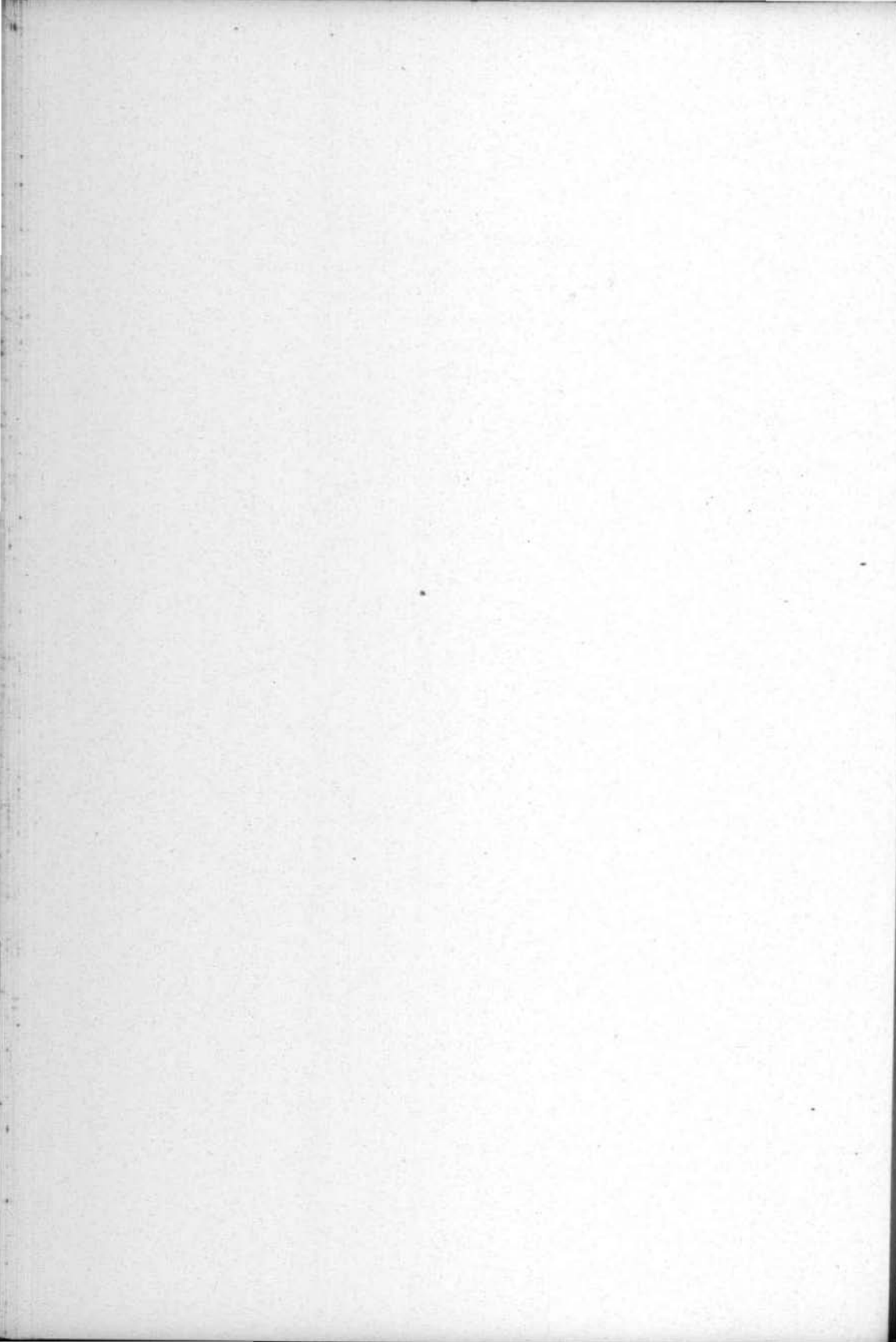
Less freight paid and de-		
ducted	13.51	11.49

Balance of purchase price
(\$361.00) payable in
quarterly installments
of \$33.60.

West Publishing Co.

Vol. 234 Fed. Rep.....	3.50
71 Southern Reporter.....	4.00
112 Southeastern Reporter.....	4.25
158 Northwestern Reporter.....	4.25

\$1,595.01



SCHEDULE OF CIVIL CASES

COMMON LAW.

*In the Circuit Court of the Eighth Judicial Circuit,
Alachua County, Florida.*

King Lumber Co., Plaintiff,

v.

State Board of Control, Defendant.

This is a suit brought by the plaintiff against the defendant to recover a balance alleged to be due by the defendant to the plaintiff on account of a contract for the construction of a building by the plaintiff for the defendant on the grounds of the University of Florida at Gainesville. Further action in the case has been suspended pending disposition of the case of King Lumber Company v. State Board of Control and Lumber Manufacturing Company, reported at p. 50 of this report.

In the County Judge's Court, Dade County, Florida.

*In re Estate of W. M. Johnson,
Deceased.*

This was a proceeding brought to escheat certain property of the decedent because it appeared at the time that there were no heirs to take the property. Before the case was disposed of an heir to the property was found and, therefore, no further proceedings were taken.

In the County Judge's Court, Jackson County, Florida.

E. M. Togle, Plaintiff,

v.

State of Florida, Defendant.

This was a suit brought to recover for services by the plaintiff in locating escapes from the Florida Industrial School at Marianna. Settlement was made by payment for the services rendered and the suit was dismissed.

*In the Circuit Court of the Ninth Judicial Circuit,
Jackson County, Florida.*

S. E. Key, Complainant,

v.

*Florida Home Insurance Company,
Defendant.*

*J. C. Luning, State Treasurer,
Garnishee.*

In this case the complainant sought to garnishee certain funds in the hands of the State Treasurer. The writ of garnishment was quashed on motion filed by this office.

*In the Circuit Court of the Ninth Judicial Circuit,
Bay County, Florida.*

*Park Trammell, et al., as the Board
of Commissioners of State Institu-
tions, Plaintiffs,*

v.

H. C. Carr, et al., Defendants.

This suit was brought in the Circuit Court of Bay

County against F. C. Carr, lessee of State prisoners, and his bondsmen for a balance due by him on account of his contract with the Board of Commissioners of State Institutions for the lease of such prisoners. The amount due was \$2,363.75 and a judgment was recovered against the defendants for this amount.

*In the Circuit Court of the Eleventh Judicial Circuit,
Dade County, Florida.*

J. M. Cobb et al., Plaintiffs in Error,

v.

*Park Trammell, Governor of the
State of Florida, for the use of
Dade County, Defendant in Error.*

This case came from the Circuit Court of Dade County upon writ of error to the Supreme Court. It was a suit upon an appearance bond and this office joined in the brief filed by the State Attorney and Messrs. Price and Eyles on behalf of the State in the Supreme Court. It has not yet been passed on by the Supreme Court.

*In the Circuit Court of the Second Judicial Circuit,
Leon County, Florida.*

*Park Trammell et al, as the Board
of Commissioners of State Institutions,
Plaintiffs,*

v.

*DeLeon Naval Stores Company,
a Corporation, et al, Defendants.*

This is a suit brought in the Circuit Court of Leon

County against DeLeon Naval Stores Company, a corporation, lessee of State prisoners, and its bondsmen for a balance due by it on account of its contract with the Board of Commissioners of State Institutions for the lease of such prisoners. The amount due was \$6,060.74. The executors of the estate of J. B. Conrad, deceased, one of the sureties on the bond of this defendant, have paid to the Board the sum of \$2,000, the amount of the obligation of this decedent on the bond. The other defendants have demurred to the declaration, but the demurrer has not yet been passed upon by the court.

*In the Circuit Court of the Eleventh Judicial Circuit,
Broward County, Florida.*

*Forbes Pioneer Boat Line,
a Corporation, Plaintiff,*

v.

*Board of Commissioners of Ever-
glades Drainage District, Defendant.*

This is an action at law brought to recover an amount alleged to have been paid by the complainant to the defendant on account of tolls charged for the use by the plaintiff for the purpose of navigation of certain canals constructed by the defendant for the drainage of the Everglades.

A demurrer has been filed to the declaration but has not been disposed of.

CHANCERY SUITS AND INTERVENTIONS FOR
PURPOSE OF ASKING FOR ORDERS REQUIR-
ING PAYMENT OF TAXES DUE THE STATE.

In the Supreme Court, State of Florida.

Rachel C. M. Gaillard, et al,
Complainants,

v.

George Lewis, Executor, et al,
Defendants.

The State's contentions on the principal questions involved in this case were upheld in a previous decision of the Supreme Court (61 Fla. 819).

The issue presented in this case was whether or not the trust found was chargeable with the expense of counsel fees of the complainant. The court held that counsel fees for the complainant from this fund should not be allowed. This case is reported in 70 Fla. 172.

*In the District Court of the United States, Northern
District of Florida.*

S. I. Wailes, Complainant,

v.

*Park Trammell, et al., as Trustees of
the Internal Improvement Fund of
the State of Florida, Defendants.*

This is a suit brought by the complainant against the defendants for an accounting, the basis of such suit being an alleged contract made by the State to Wailes for securing a settlement with the Federal Government on account of Indian War claims and on account of the alleged

procurement by said Wailes of patents to certain lands to the State under the Swamp Land Grant Act of 1850. The case is now pending on demurrer of defendants to the bill of complaint.

In the Supreme Court of the United States.

*The Manila Investment Company, a
Corporation, et al., Complainants,*

v.

*Park Trammell, Governor, et al., as
Trustees of the Internal Improve-
ment Fund of the State of Florida,
et al., Defendants.*

This case was begun in the District Court of the United States for the Southern District of Florida upon a bill praying that the title of certain lands described therein be decreed to be held in trust by the defendants for the complainants. The District Court dismissed the bill for want of jurisdiction, which order was, upon appeal to the Supreme Court of the United States, affirmed. This case is reported in 239 U. S. 31.

*In the Circuit Court of the Tenth Judicial Circuit, DeSoto
County, Florida.*

*Tampa and Jacksonville Railroad
Company, a Corporation, Complainant,*

v.

*Park Trammell, et al., as Trustees of
the Internal Improvement Fund of
the State of Florida, Defendants.*

This is a suit brought by the complainant against the

defendants to require them to convey to it certain lands therein described, claiming under an alleged legislative grant of such lands to it and its predecessors. A plea to the jurisdiction of the court was filed and upon argument this plea was sustained by the Circuit Judge. Upon appeal to the Supreme Court this order was reversed and the case remanded (70 Fla. 409), but has not yet been disposed of.

In the Supreme Court, State of Florida.

Richardson-Kellett Company, Appellant,

v. •

O. B. Kline, Appellee.

This suit was brought by the appellee against the appellant in the Circuit Court of Dade County for the specific performance of a contract for the sale of land. Decree was rendered for the complainant and defendant appealed. The principal question involved in the case was the validity of the reservations made by the Trustees of the Internal Improvement Fund in deeds made by them. The Supreme Court reversed the order and decree of the court below, holding the reservations to be valid. This case is reported in 70 Fla. 23.

*In the Circuit Court of the Ninth Judicial Circuit,
Jackson County, Florida.*

S. E. Key, Complainant,

v.

Florida Home Insurance Company,

J. C. Luning, State Treasurer, et al,

Defendants.

This was a suit brought for the purpose of subjecting

certain securities of the Florida Home Insurance Company, held by the State Treasurer, to a judgment obtained by the complainant against said company and for other relief. A demurrer on behalf of the State Treasurer to the bill of complaint was sustained by the Circuit Judge. Upon an appeal to the Supreme Court from the order sustaining this demurrer the judgment was affirmed. This case will be reported in 72 Fla.—.

*In the Circuit Court of the Fourth Judicial Circuit,
Duval County, Florida.*

*J. C. Luning, as State Treasurer of
the State of Florida, Petitioner,*
v.

*Florida Life Insurance Company,
Defendant.*

This was a proceeding brought by the State Treasurer against the defendant, which was alleged to be insolvent, for the purpose of winding up its affairs and protecting the rights of interested parties. The defendant was found to be insolvent and distribution of its assets was made as directed by the court.

*In the Circuit Court of the Tenth Judicial Circuit,
DeSoto County, Florida.*

Palmdale Land Company, Complainant,
v.

*Manatee Cattle Company and Trustees
of the Internal Improvement Fund
of the State of Florida, Defendants.*

This suit was brought to quiet title in the complainant

to certain lands therein described formerly owned by the State of Florida. Disclaimer on behalf of the Trustees of the Internal Improvement Fund was filed, said defendants having divested themselves of the title and ownership to said land by deed number 12933, made December 15, 1884, and deed number 13101, made May 13, 1885, the former to the Atlantic and Gulf Coast Canal and Okeechobee Land Company and the latter to the Florida Southern Railway Company.

*In the District Court of the United States, Southern
District of Florida.*

*W. W. Crawford, Trustee, and Assets
Realization Company, Complainants,*
v.

*Ocala Northern Railroad Company,
Defendant; William V. Knott,
Comptroller, Intervener.*

In this case intervention was filed on behalf of William V. Knott, Comptroller, for the purpose of enforcing collection of taxes due by Ocala Northern Railroad Company to the State as follows: ad valorem taxes for the years 1913 and 1914, and license taxes for the years 1912, 1913, and 1914. While this proceeding was pending the road was sold and a new company called the Ocklawaha Valley Railroad Company was organized to operate it, and a warrant was issued by the Comptroller to the sheriff of Marion County as authorized by law, directing the collection of the taxes due upon the property of said railroad company.

*In the Circuit Court of the Ninth Judicial Circuit,
Washington County, Florida.*

*George H. Dent, et al., Complainants,
v.*

*Birmingham, Columbus and St. Andrews Railroad Company, et al.,
Defendants. William V. Knott,
Comptroller, Intervener.*

This was a proceeding similar to the one immediately preceding, brought to collect the taxes due by said railroad company for the years 1911, 1912, 1913 and 1914. The court made an order directing the payment of the taxes, amounting to \$5,307.55, which amount was collected and paid into the State treasury.

*In the Circuit Court of the Fourth Judicial Circuit,
Duval County, Florida.*

*Florida Construction and Realty Company, Complainant,
v.*

*Florida Railway Company, Defendant,
William V. Knott, Comptroller,
Intervener.*

The Comptroller intervened in the above suit for the purpose of collecting taxes due by the Florida Railway Company to the State of Florida, as follows: License taxes for the years 1912, 1913, 1914 and 1915, and ad valorem taxes for the years 1913, 1914 and 1915; aggregating \$18,995.34.

It was contended by the Railway Company in this case that the statutes of this State providing for and regu-

lating the assessment of railroad properties for the purpose of taxation and the collection of taxes due by such companies were unconstitutional and, therefore, unenforceable. The Circuit Judge overruled this contention and an order was made by him directing the Receiver to pay the amount due by this company to the Comptroller, or his attorney, or, if no funds were available for this purpose, to sell such of the property of the company as was necessary to realize a sum sufficient to pay the same. From this order an appeal was taken to the Supreme Court of the State, where the order of the Circuit Judge was affirmed. This case will be reported in 72 Fla. —.

Collection of the amount due was thereafter made by sale of certain properties of the company and the money was paid into the State treasury.

*In the Circuit Court of the Second Judicial Circuit,
Leon County, Florida.*

Henry Disston, et al., Complainants,

v.

*Park Trammell, et al., as Trustees of
the Internal Improvement Fund of
the State of Florida, et al., Defendants.*

The question involved here is the same as that presented in the case of *The Manila Investment Company v. Trammell, et al.*, as Trustees of the Internal Improvement Fund. Suit was instituted in the State court after the decision of the Supreme Court of the United States. A demurrer of the defendants to the bill of complaint of the complainant was sustained and the bill dismissed by the Circuit Judge. An appeal from this decree has been taken to the Supreme Court of the State.

*In the Circuit Court of the Eighth Judicial Circuit,
Alachua County, Florida.*

King Lumber Company, Complainant,

v.

*State Board of Control and Lumber
Manufacturing Company, Defendants.*

This is a suit in equity for an accounting arising out of the same transaction as that referred to in the case of King Lumber Company, plaintiff, v. State Board of Control, defendant reported at p. 39 of this report, and is now pending in the Supreme Court.

*In the District Court of the United States, Southern
District of Florida.*

*Byrne Realty Company, a Corporation,
Complainant,*

v.

*Harry M. Kreamer, as Executor, et al,
Defendants, Trustees of the Internal
Improvement Fund of the State of
Florida, Interveners.*

This is a case brought to subject a certain certificate issued by L. B. Wombell, Commissioner of Agriculture, to J. A. Henderson, dated June 16, 1892, to sale, together with the equitable title and interest of the defendants in the lands described in said certificate. The Trustees of the Internal Improvement Fund filed petition for intervention as owner to certain of the lands described in the certificate, alleging that the certificate was issued without authority and is, therefore, of no binding force or effect. A special Master was appointed and is now taking testimony upon the issue of facts raised by the petition of intervention and the answer of the complainant thereto.

*In the Circuit Court of the First Judicial Circuit,
Escambia County, Florida.*

M. C. Boley, Complainant,

v.

*William V. Knott, as Comptroller,
Defendant.*

This is a suit brought by the complainant against the defendant to have the tax levy and assessment of Escambia County for the year 1914 declared invalid and to cancel certain tax certificates issued upon lands claimed to be owned by the complainant. Demurrer has been filed on behalf of the defendant to the bill of complaint of complainant but has not yet been passed on.

*In the Circuit Court of the Fourth Judicial Circuit,
Duval County, Florida.*

*Jacksonville Mortgage and Realty
Company, Complainant,*

v.

*William V. Knott, Comptroller,
et al, Defendants.*

This is a suit brought by the complainant to cancel tax certificates against certain real property alleged to be owned by the complainant. A demurrer has been filed to the bill of complaint but has not yet been passed on.

*In the Circuit Court of the Eleventh Judicial Circuit,
Dade County, Florida.*

*Avocado Land Company, a Corporation,
Complainant,*

v.

*Park Trammell, Governor, et al, as
Trustees of the Internal Improvement
Fund, Defendant.*

This is a suit in equity brought to quiet title to certain accretions and marsh lands along the coast of Biscayne Bay claimed by the complainant as riparian rights attached to the shore or upland to which it claims to hold title. A demurrer of the defendants to the bill was sustained by the court on the 28th day of December, A. D. 1916, and the complainant given thirty days in which to further plead.

In the Supreme Court of the United States.

*In re Petition of Clair D. Vallette
and Alfred B. Quinton.*

This was a petition for leave to file an original proceeding in the Supreme Court of the United States against the State of Florida for an injunction and for a receiver to take charge of the drainage of the Everglades of Florida.

This petition was denied October 15, 1916.

*In the Circuit Court of the Ninth Judicial Circuit,
Washington County, Florida.*

George H. Dent, et al, Complainants,

v.

Birmingham, Columbus and St.

Andrews Railroad Company et al,

Defendants; William V. Knott,

Comptroller, Intervener.

This was a proceeding similar to the one of George H. Dent et al, complainants, v. Birmingham, Columbus and St. Andrews Railroad Company et al, defendants. William V. Knott, Comptroller, intervener, reported at p. 48 of this report, brought for the purpose of collecting the taxes due by the said railroad company for the year 1915. An order was made directing the Receiver to pay the taxes due, amounting to \$2,367.96, which was done, and the amount was paid into the State treasury.

*In the Circuit Court of the Fourth Judicial Circuit,
Duval County, Florida.*

Malcolm Barrs, Complainant,

v.

William V. Knott, as Comptroller,

Defendant.

This is a suit brought to cancel certain tax certificates issued upon certain property in Duval County upon sale of such property because of the non-payment of taxes for the years 1907, 1908 and 1909. A demurrer on behalf of the defendant has been filed but has not yet been disposed of.

INJUNCTION, MANDAMUS AND OTHER EXTRAORDINARY LEGAL PROCEDURE.

In the Supreme Court of the United States, Southern District of Florida.

Van Deman and Lewis Company, a Corporation, et al., Complainants,

v.

John W. Rast, Tax Collector of Duval County, et al., Defendants.

This was a case brought by the complainants against all the tax collectors in all of the counties in Florida and all the prosecuting officers in all of the criminal courts of the State to enjoin them from taking any action looking to the collection of the license tax imposed by the provisions of Section 35 of Chapter 6421, Laws of Florida, commonly called the "Coupon License Tax."

It was heard by three Federal Judges under the provisions of Section 266 of the Judicial Code of the United States and upon the hearing an order was made restraining the defendants, according to the prayer of the bill of complaint, on the theory that the statute involved was unconstitutional and void. This case is reported in 214 Fed. Rep. 827. This office represented the defendants and being unwilling to concede that the views of the three Federal Judges hearing the case were correct and that the Federal courts had any such power as was exercised in that decision, an appeal was taken to the Supreme Court. In the consideration of the case by the Supreme Court it was held that the judgment of the court below was error and the case was reversed with direction that the bill be dismissed. This case is reported in 240 U. S. 342.

*In the Circuit Court of the Second Judicial Circuit,
Leon County, Florida.*

*The Pullman Company, a Corporation,
Complainant,*

v.

William V. Knott, Comptroller, Defendant.

This is a suit in which the complainant sought to enjoin the defendant from issuing his warrant as Comptroller against the complainant for the purpose of enforcing the payment of the gross receipts tax due by the complainant to the State. The Circuit Judge denied the application for the injunction, sustained a demurrer of the defendant to the bill of complaint and dismissed the suit. From this order an appeal was taken to the Supreme Court of the State, where the judgment of the court below was affirmed (70 Fla. 9). From this judgment a writ of error was taken to the Supreme Court of the United States and the case is pending in that court now but will very probably be affirmed, as that court, in a case of the Pullman Company v. Knott, Comptroller, 235 U. S. 23, passed upon the same question, holding the statute imposing the tax complained of valid and enforceable. The only difference in the cases is that in the case already passed on by the Supreme Court of the United States the proceeding was begun in the Federal courts, whereas the proceeding in the case now before that court went up through the State courts.

*In the District Court of the United States, Southern
District of Florida.*

*Southern States Land and Timber
Company, Complainant,*

v.

*George O. Butler, Clerk Circuit
Court of Palm Beach County,
Defendant.*

This was a suit brought for the purpose of enjoining the defendant from selling certain drainage tax sale certificates. Before the questions involved were submitted and passed upon by the court an agreement between the parties was reached and the case was dismissed.

In the Supreme Court, State of Florida.

J. F. McKinnon, Plaintiff in Error,

v.

*State ex rel Davis and Giles,
Defendant in Error.*

This was a mandamus proceeding in the Circuit Court of Orange County brought to compel the plaintiff in error, as County Superintendent of Public Instruction, to countersign certain warrants issued by the Board of Public Instruction of Orange County. Peremptory writ of mandamus was issued from the Circuit Court and defendant sued out writ of error to the Supreme Court. This office briefed the case in the Supreme Court on behalf of the plaintiff in error. The judgment of the Circuit Court was reversed. This case is reported in 70 Fla. 561

In the Supreme Court, State of Florida

*Charles E. Allen, Tax Collector,
Appellant,*

v.

*Joseph Dixon Crucible Company,
Appellee.*

This was an appeal from an order of the Circuit Court of Citrus County restraining the tax collector of Citrus County from enforcing the collection of the taxes due by the appellee upon certain personal property owned and held by it in Citrus County. This office prepared and filed a brief in the Supreme Court and made an argument in the Supreme Court on behalf of the tax collector on the appeal. The Supreme Court, in an opinion filed November 19, 1915, reversed the judgment of the court below, holding that the entry of the restraining order was error. This case is reported in 70 Fla. 406.

*In the Circuit Court of the Sixth Judicial Circuit,
Hillsborough County, Florida.*

*State ex rel Bank of Ybor City,
Relator.*

v.

*S. E. Sparkman, Tax Assessor,
Respondent.*

This was a proceeding by mandamus to compel the tax assessor of Hillsborough County to assess certain personal property of several banks in that county at amounts fixed by the Board of County Commissioners of the county at a meeting held by the board for the purpose of reviewing and equalizing the assessment of the county. A peremptory writ was awarded by the Circuit Judge and an

appeal was taken to the Supreme Court. At the request of the Tax Commission this office prepared and filed a brief on behalf of the tax assessor in the Supreme Court. This case is reported in 71 Fla. 210.

*In the Circuit Court of the Second Judicial Circuit,
Leon County, Florida.*

*Ocklawaha Valley Railroad Company,
Complainant,*

v.

*William V. Knott, Comptroller,
Defendant.*

This was a suit in which the complainant sought to enjoin the defendant from issuing his warrant as Comptroller to the sheriff of Marion County, directing the collection of the tax due by the Ocklawaha Valley Railroad Company to the State, referred to in the case of W. W. Crawford, Trustee, and Assets Realization Company, complainants, v. Ocala Northern Railroad Company, defendant, William V. Knott, Comptroller, intervener, reported at p.— of this report. The Circuit Court denied the injunction. The warrant was issued and the taxes due, amounting to \$6,878.19, were collected and paid into the State treasury.

In the Supreme Court, State of Florida.

Ex parte Edward H. Clarkson.

This was an original proceeding in the Supreme Court to test the constitutional validity of Chapter 6969, Acts of 1915, commonly known as the "Game Law." The act was held to be valid and enforceable. This case is reported in 70 Fla. 340.

*In the District Court of the United States,
Southern District of Florida.*

J. W. Jackson et al, Complainants,
v.
*E. S. Cravens, Supervising Inspector
of Naval Stores, et al, Defendants.*

This was a proceeding by injunction against the defendants and sought to restrain them from taking any action looking to the enforcement of the provisions of Chapter 6878, Acts of 1915, Laws of Florida, commonly called the "Pure Spirits of Turpentine Act." It was heard by three Federal Judges under the provisions of Section 266 of the Judicial Code of the United States and an order was made denying the application and holding the statute valid and enforceable (235 Fed. Rep. 212). From this judgment an appeal was taken to the Circuit Court of Appeals of the Fifth Judicial Circuit, which appeal was, upon motion of the Appellees, dismissed. This case will be reported in — Fed. Rep. —.

In the Supreme Court, State of Florida.

J. F. McKinnon, Plaintiff in Error,
v.
State ex rel W. S. Coleman.
Defendant in Error.

This was a mandamus proceeding in the Circuit Court of Orange County to compel the plaintiff in error, as County Superintendent of Public Instruction, to endorse the teacher's certificate of the defendant in error, obtained in a county other than that of his residence. The teacher contended that the County Superintendent had no discretion in the matter. The Circuit Judge upheld the con-

tention of the teacher and issued a peremptory writ. Upon writ of error to the Supreme Court this office represented the plaintiff in error and the judgment of the court below was reversed. This case will be reported in 72 Fla. ———.

In the Supreme Court, State of Florida.

*State ex rel. J. C. Luning, State
Treasurer, et al., Relators,
v.*

*R. G. Johnson et al., as County Com-
missioners of Leon County, Respondents.*

This was an original proceeding by mandamus in the Supreme Court, brought to test the question of whether or not the counties should pay over to the State Treasurer for the State Road Department fifteen per cent of the license tax imposed and collected from owners or operators of automobiles or other motor driven vehicles in this State. It was contended by counsel for the respondents that Section 10 of Chapter 6883 is in conflict with Section 2 of Chapter 6881 and also that said Section 10 of Chapter 6883 was unconstitutional for various reasons and, therefore, unenforcible. The court overruled all these contentions and held Section 10 to be valid and enforceable and directed the board of county commissioners to draw warrants upon the county treasurer in favor of the State Treasurer for all moneys heretofore collected and paid over to the county treasurer on this account and directed the tax collector to hereafter make remittances of all collections on this account direct to the State Treasurer. This case is reported in 71 Fla. 363.

*In the Circuit Court of the Ninth Judicial Circuit,
Holmes County, Florida.*

*J. A. Simmons, et al., County Commissioners of Holmes County,
Florida, Plaintiffs in Error,*

v.

*State of Florida ex rel. P. W. Tew,
Defendant in Error.*

This was an action of mandamus in the Circuit Court of Holmes County brought to compel the county commissioners of said county to issue a warrant to cover costs in a case involving a violation of the local option law in which no deposit for cost or affidavit of insolvency had been made. This office was not in the case in the Circuit Court but assisted in briefing it in the Supreme Court on behalf of the board of county commissioners. The judgment of the lower court was affirmed. The case is reported in 71 Fla. 340.

*In the Circuit Court of the Eleventh Judicial Circuit,
Dade County, Florida.*

Mary Brickell, Complainant,

v.

*Park Trammell, Governor, et al., as
Trustees of the Internal Improvement Fund of the State of Florida,
Defendants.*

This is an application for injunction brought against the Trustees of the Internal Improvement Fund to enjoin them from making a deed to a certain island in Biscayne Bay, the title to which was held by them under the provisions of Chapter 6961, Acts of 1915, to a purchaser

of said island, the complainant claiming to be the owner of the property involved because of her alleged ownership of certain other property bordering the said bay and as riparian rights thereto. A demurrer on behalf of the defendants was filed which was, upon hearing, sustained, and complainant was granted leave to amend her bill, but the time for such amendment has not expired at the time of filing this report.

In the Supreme Court, State of Florida.

State of Florida ex rel Thomas F. West,
Attorney General, Petitioner.

v.

J. Turner Butler, Respondent.

This was an original proceeding in quo warranto to test the constitutional validity of Chapter 6899, Acts of 1915, creating an additional judicial circuit to be known as the Twelfth Judicial Circuit of the State of Florida, and fixing the boundaries of the Fourth, Eighth and Twelfth Judicial Circuits, and to test the right of the respondent to occupy and hold the office of Judge of the Fourth Judicial Circuit. Upon hearing the court held the statute unconstitutional and void. This case is reported in 70 Fla. 102.

In the Supreme Court, State of Florida.

State of Florida ex rel Thomas F. West,
Attorney General, Petitioner,

v.

S. J. Hilburn, Respondent.

This case is practically the same as the one preceding. The decision of the Supreme Court rendered on the same day was to the same effect. This case is reported in 70 Fla. 55.

In the Supreme Court, State of Florida.

State ex rel William V. Knott, Relator,

v.

H. Clay Crawford, Secretary of State,

T. F. West, Attorney General, and

J. C. Luning, State Treasurer, as

the State Canvassing Board for

Primary Elections, Respondents.

This was an original proceeding by mandamus in the Supreme Court to compel the respondents to re-assemble and re-canvass the amended and corrected returns from certain counties, together with the original returns from certain other counties, of the primary election held on June 6, 1916. This office prepared the answer for the respondents. After hearing the evidence in the case the alternative writ was amended and peremptory writ issued, after which, return in compliance therewith was filed.

*In the District Court of the United States,
Southern District of Florida.*

Charles J. Sauer, et al, Petitioners,

v.

Florida Railway Company, et al,

Defendants.

In this case, which was alleged to be ancillary to proceedings in the United States District Court for the Southern District of New York, it was sought to restrain the Receiver, which had been appointed by the courts of Florida, from proceeding to make sale of the properties of said railway company under the order of the Florida courts for the purpose of realizing funds with which to pay the taxes due by said railway company to the State.

*In the Circuit Court of the Fourteenth Judicial Circuit,
Jackson County, Florida.*

*Marianna and Blountstown Railroad
Company, Complainant,*

v.

*William V. Knott, as Comptroller,
and H. A. Bowles as Sheriff of
Jackson County, Defendants.*

This is a suit brought to restrain the execution of a warrant issued by the Comptroller against complainant for the collection of certain license taxes alleged to be due October 1, 1916, and unpaid by the complainant to the State. A temporary restraining order was made November 30, 1916, but pleadings on behalf of the defendants have not been filed at the time of this report.

*In the Circuit Court of the Eleventh Judicial Circuit,
Palm Beach County, Florida.*

George W. Lainhart, Complainant,

v.

*Board of Commissioners of Everglades
Drainage District, et al., Defendants.*

This is a suit brought by a tax payer in the Everglades Drainage District against the defendants to enjoin them from taking any action looking to the collection of the drainage tax or assessment imposed upon the land in the district. The purpose of the suit is to test the validity of the drainage tax and the bonds issued by the district. A demurrer of the defendants to the bill of complaint has been sustained by the Circuit Judge and the case is now on appeal to the Supreme Court.

HABEAS CORPUS PROCEEDINGS TO TEST VALIDITY OF STATUTES.

*In the Circuit Court of the Third Judicial Circuit,
Columbia County, Florida.*

Jake Butler, Petitioner,

v.

J. W. Perry, as Sheriff, Defendant.

In this case the petitioner, Jake Butler, was convicted in the court of the County Judge of Columbia County upon an affidavit charging him with failure to work the public roads after being summoned by a proper officer so to do, and he thereupon petitioned the Circuit Court for a writ of habeas corpus, alleging the affidavit against him to be defective and the statute under which the conviction was had, Chapter 6537, Acts of 1913, to be unconstitutional and void.

At the hearing upon said petition the petitioner was remanded and from such order a writ of error was sued out to the Supreme Court of Florida. In the opinion of the Supreme Court the order remanding the petitioner to the custody of the sheriff was affirmed and the statute upheld as valid and enforceable. This case is reported in 67 Fla. 405.

In the Supreme Court, State of Florida.

Ex parte

Adolph Pricha.

This was an original proceeding by habeas corpus in the Supreme Court in which the issue presented was the constitutional validity of Chapter 6860, Acts of 1915, an Act to regulate the furnishing of intoxicating liquors.

etc., commonly called the "Davis Package Law." The court held the statute valid and enforceable and remanded the petitioner to the custody of the sheriff. This case is reported in 70 Fla. 265.

In the Supreme Court, State of Florida.

Ex parte Thomas Powell.

This was an original proceeding by habeas corpus in the Supreme Court in which the issue presented was the constitutional validity of certain provisions of Chapter 6877, Acts of 1915, imposing a license tax on those using boats of certain dimensions in taking fish from the public waters of this State. The court sustained the validity of the act and remanded the petitioner to the custody of the Sheriff. This case is reported in 70 Fla. 363.

In the Supreme Court, State of Florida.

Ex parte Guiseppe Gilletti et al.

This was an original proceeding by habeas corpus in the Supreme Court in which the issue presented was the constitutional validity of certain provisions of Chapter 6877, Acts of 1915, Laws of Florida, requiring aliens to pay a license tax for taking and removing oysters from the public oyster beds of the State. The court held the statute valid and remanded the applicants to the custody of the sheriff. This case is reported in 70 Fla. 444.

HOMESTEAD CONTESTS.

The Department of the Interior, Washington, D. C.

Allen B. Henderson, Contestant,

v.

State of Florida, Contestee.

This was a contest involving the title to a certain tract of land in Dade County, the contestant claiming it as a homestead and the State claiming it under the Swamp Land Grant Act of 1850. The decision of the Land Office at Gainesville was in favor of the State. The contestant appealed to the General Land Office at Washington where this decision was affirmed. He then appealed to the Department of the Interior where the decision of the General Land Office was affirmed.

*In the Supreme Court of the District of Columbia,
Washington, D. C.*

United States of America ex rel

Allen B. Henderson, Relator,

v.

*Franklin K. Lane, Secretary of the
Interior, Respondent.*

This was a proceeding in mandamus brought to compel the allowance of a homestead entry upon the lands involved in the case immediately preceding, notwithstanding the decision of the Land Offices and the Department of the Interior. An alternative writ was issued but upon answer and testimony a peremptory writ was denied.

The following cases are pending before the Department of the Interior, United States Land Office, at Gainesville, Florida, and involve contests by the State of the right of homestead entry upon certain lands claimed by the State under the Swamp Land Grant of 1850:

The State of Florida v. William W. Freeman.
The State of Florida v. Mabel C. Woodruff.
The State of Florida v. Malcome E. McLaughlin.
The State of Florida v. Joseph D. Bryan.
The State of Florida v. Trezvant de G. Feaster.
The State of Florida v. Orlando Soule.
The State of Florida v. Doctor Frank Simmons.

Testimony in the above cases has been taken before the County Judge of Palm Beach County, but no decision rendered.

The State of Florida v. Emory W. Gray.
The State of Florida v. John W. Hill.
The State of Florida v. Thomas J. Durrance.
The State of Florida v. Willis J. Brantley.
The State of Florida v. Lewis Pollard.

Testimony in these five cases was taken before the Clerk of the Circuit Court of DeSoto County, at Arcadia, Florida, but no decision rendered as yet.

The State of Florida v. John Johnson.

Testimony in this case was taken before the Clerk of the Circuit Court of Polk County, at Bartow, but no decision has been rendered as yet.

The State of Florida v. Perry C. Moody.

Testimony in this case has not been taken, but will probably be taken before the Clerk of the Circuit Court of Putnam County in a short time.

**JUDGMENTS RECOVERED AND AMOUNTS COL-
LECTED BY THE ATTORNEY GENERAL
DURING THE PERIOD COVERED BY
THIS REPORT.**

**Florida, Alabama & Gulf Railroad
Co.:**

Advalorem taxes for 1914.....	\$ 1,213.75	
License taxes for 1915.....	203.40	\$ 1,417.15

Boca Grande Investment Co.:

For lease of State prisoners.....		4,099.04
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DeLeon Naval Stores Co.:

For lease of State prisoners.....		2,000.00
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J. S. Fisher & Company:

For lease of State prisoners.....		2,659.46
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**Birmingham, Columbus & St. An-
drews Bay R. Co.:**

Advalorem tax for 1911, 1912		
1913, 1914, 1915.....	6,121.51	
License tax for years 1911, 1912,		
1913, 1914, 1915, 1916.....	1,554.00	7,675.51

Florida Railway Company:

Advalorem tax for years 1913,		
1914 and 1915.....	16,640.54	
License tax for years 1912, 1913,		
1914 and 1915.....	2,354.80	18,995.34

Ocala Northern Railway:

Advalorem tax for years 1913 and		
1914, amount collected.....		6,878.19

The Pullman Company:

Gross receipts tax for years 1910.		
1911, 1912 and 1913.....		20,244.85

Peninsular Casualty Insurance Company:	
Gross receipts tax for years 1910, 1911 and 1912.....	14,128.55
Florida Life Insurance Company:	
Gross receipts tax for years 1911 and 1912	9,761.98
H. C. Carr:	
For lease of State prisoners.....	2,363.75
Total	\$90,223.82

QUO WARRANTO.

Authority was given by the Attorney General to the parties whose names appear below to institute proceedings in the name of the Attorney General upon relation of the State in *quo warranto*. Statement of the purpose of the suit is given in each case.

Mitchell D. Price, Miami, Florida.

April 15, 1915.

Authority granted to use the name of the Attorney General to test the legality of the incorporation of the town of Florida City in the county of Dade.

C. M. Cooper, Jacksonville, Florida.

June 9, 1915.

Authority granted to use the name of the Attorney General to test the authority of J. Turner Butler to hold and occupy the office of Judge of the Twelfth Judicial Circuit of the State of Florida, and the validity of the Act creating said office.

C. M. Cooper, Jacksonville, Florida.

June 9, 1915.

Authority granted to use the name of the Attorney General to test the authority of Samuel J. Hilburn to hold and occupy the office of Judge of the Fourth Judicial Circuit of the State of Florida, and the validity of the Act re-organizing said Circuit.

Jerome E. Wideman, West Palm Beach, Florida.

July 27, 1915.

Authority granted to use the name of the Attorney General to test the right of A. H. Shipman to hold and exercise the functions of the office of Vice-Mayor of the town of Lake Worth in Palm Beach County.

John P. Wall, Tampa, Florida.

September 4, 1915.

Authority granted to use the name of the Attorney General to test the authority of certain persons to exercise the functions and powers of directors of Library Board of the City of Tampa, in Hillsborough County.

G. A. Frost, Fort Lauderdale, Florida.

November 23, 1915.

Authority granted to use the name of the Attorney General to test the authority of O. B. Smoak to exercise the functions, franchises and powers of the office of Town Clerk of the Town of Pompano, in Broward County.

William K. Jackson, Jacksonville, Florida.

May 22, 1916.

Authority granted to use the name of the Attorney General to test the right of certain persons to hold and exercise the functions of the office of members of the Auditing

Committee of the Board of Bond Trustees of the government of the City of Jacksonville, Duval County Florida, a municipal corporation under the laws of the State of Florida.

William K. Jackson, Jacksonville, Florida.

May 22, 1916.

Authority granted to use the name of the Attorney General to test the right of certain persons to hold and exercise the functions of the office of members of the Committee on Public Works of the government of the City of Jacksonville, Duval County, Florida, a municipal corporation under the laws of the State of Florida.

Price & Carter, Marianna, Florida.

October 14, 1916.

Authority granted to use the name of the Attorney General to test the right of W. H. Ham to hold and occupy the office of Town Marshal of the Town of Sneads in Jackson County.

CRIMINAL CASES.

IN WHICH OPINIONS WERE FILED BY THE
SUPREME COURT DURING THE YEARS
1915 AND 1916.

This office Representing the State in Each Case.

JANUARY TERM, 1915.

REPORTED IN VOLUME SIXTY-NINE FLORIDA REPORTS.

Jim Bivens v. State:

Jim Bivens was convicted in the Circuit Court of Clay County of murder in the first degree, Judge George Couper Gibbs presiding. Upon writ of error judgment was affirmed May 11, 1915. Reported in 69 Fla. 591, 68 So. 757.

Floyd Blackwell v. State:

Floyd Blackwell was convicted in the Circuit Court of Lake County of murder in the second degree, Judge W. S. Bullock presiding. Upon writ of error judgment was affirmed April 20, 1915. Rehearing denied May 11, 1915. Reported in 69 Fla. 453, 68 So. 470.

C. A. Boyett v. State:

C. A. Boyett was convicted in the Circuit Court of Jackson County of murder in the second degree, Judge D. J. Jones presiding. Upon writ of error judgment was affirmed June 2, 1915. Reported in 69 Fla. 648, 68 So. 951.

Vander Brooks v. State:

Vander Brooks was convicted in the Circuit Court of St. Lucie County of being a common liquor dealer, Judge James W. Perkins presiding. Upon writ of error judgment was reversed April 20, 1915. Reported in 69 Fla. 446, 68 So. 446.

Isaac Coley v. State:

Isaac Coley was convicted in the Circuit Court of Clay County of murder in the second degree, Judge George Couper Gibbs presiding. Upon writ of error judgment was affirmed May 4, 1915. Reported in 69 Fla. 568, 68 So. 655.

Math Davis, B. M. Franklin and Ben McDaniel v. State:

Math Davis, B. M. Franklin and Ben McDaniel were convicted in the Circuit Court of Calhoun County of murder in the second degree, Judge D. J. Jones presiding. Upon writ of error judgment was affirmed April 13, 1915. Reported in 69 Fla. 401, 68 So. 460.

John Flowers and Ephriam Lyle v. State:

John Flowers and Ephriam Lyle were convicted in the Criminal Court of Record of Duval County of the larceny of a cow, Judge J. M. Peeler presiding. Upon writ of error judgment was affirmed May 18, 1915. Reported in 69 Fla. 620, 68 So. 754.

Will Goff v. State:

Will Goff was convicted in the Circuit Court of Clay County of an offense, Judge George Couper Gibbs presiding. Writ of error was dismissed upon motion of Attorney General. Reported in 69 Fla. 715, 69 So. 1022.

Ben Holden v. State:

Ben Holden was convicted in the Circuit Court of Volusia County, of murder in the first degree, Judge James W. Perkins presiding. Upon writ of error judgment was affirmed June 7, 1915. Reported in 69 Fla. 694, 68 So. 945.

Louis Kilgore v. State:

Louis Kilgore was convicted in the Criminal Court of Record of Orange County of having carnal intercourse with an unmarried female under the age of eighteen years, Judge T. Picton Warlow presiding. Upon writ of error judgment was affirmed April 13, 1915. Reported in 69 Fla. 397, 68 So. 378.

James Lee, Sr., v. State:

James Lee, Sr., was convicted in the Circuit Court of Nassau County of murder in the first degree, Judge George Couper Gibbs presiding. Upon writ of error judgment was affirmed February 24, 1915. Reported in 69 Fla. 255, 67 So. 883.

A. D. Lindsay v. State:

A. D. Lindsay was convicted in the Circuit Court of Santa Rosa County of being a common liquor dealer, Judge J. Emmet Wolfe presiding. Upon writ of error judgment was affirmed June 2, 1915. Reported in 69 Fla. 64, 68 So. 932.

Ed Maddox v. State:

Ed Maddox was convicted in the Circuit Court of Escambia County of murder in the first degree, Judge J. Emmet Wolfe presiding. Upon writ of error judgment was affirmed June 7, 1915. Reported in 69 Fla. 695, 69 So. 20.

James Moneyham v. State:

James Moneyham was convicted in the Circuit Court of Jackson County of obtaining goods by false and fraudulent pretenses, Judge D. J. Jones presiding. Upon writ of error judgment was reversed May 11, 1915. Reported in 69 Fla. 55, 68 So. 758.

Carrie Robinson v. State:

Carrie Robinson was convicted in the Circuit Court of Columbia County of murder in the first degree, Judge M. F. Horne presiding. Upon writ of error judgment was affirmed April 27, 1915. Rehearing June 2, 1915. Reported in 69 Fla. 52, 68 So. 649.

Emmett Thomas v. State:

Emmett Thomas was convicted in the Circuit Court of Escambia County of murder in the first degree, Judge J. Emmet Wolfe presiding. Upon writ of error judgment was affirmed June 4, 1915. Reported in 69 Fla. 696, 68 So. 944.

W. C. Tully, Jr., v. State:

W. C. Tully, Jr., was convicted in the Circuit Court of Leon County of assault with intent to commit rape, Judge Emmet Wolfe presiding *pro hac vice*. Upon writ of error judgment was affirmed June 3, 1915. Reported in 69 Fla. 662, 68 So. 934.

Gustave Harrold Watkins v. State:

Gustave Harrold Watkins was convicted in the Criminal Court of Record of Hillsborough County of withholding support from his minor children, Judge Lee J. Gibson presiding. Upon writ of error judgment was reversed March 30, 1915. Reported in 69 Fla. 355, 68 So. 176.

Hardy Webb v. State:

Hardy Webb was convicted in the Circuit Court of Jackson County of obtaining property by false pretenses, Judge D. J. Jones presiding. Upon writ of error judgment was reversed with directions to quash indictment June 17, 1915. Reported in 69 Fla. 697, 68 So. 943.

W. B. Welch v. State:

W. B. Welch procured a writ of habeas corpus in the Circuit Court of Alachua County, Judge J. T. Wills presiding. Upon writ of error judgment remanding Welch to custody was affirmed January 15, 1915. Reported in 69 Fla. 21, 67 So. 224.

G. W. West v. State:

G. W. West was convicted in the Circuit Court of Holmes County of the larceny of a heifer, Judge D. J. Jones presiding. Upon writ of error judgment was affirmed April 13, 1915. Reported in 69 Fla. 400, 68 So. 379.

Arthur Winsley v. State:

Arthur Winsley was convicted in the Circuit Court of Clay County of murder in the first degree, Judge George Couper Gibbs presiding. Upon writ of error judgment was affirmed April 13, 1915. Reported in 69 Fla. 391, 68 So. 376.

Shelby Wise, alias Shebby Wise v. State:

Shelby Wise, alias Shebby Wise, was convicted in the Circuit Court of Palm Beach County of murder in the first degree, Judge James W. Perkins presiding. Upon writ of error judgment was affirmed February 24, 1915. Reported in 69 Fla. 260, 67 So. 871.

JUNE TERM 1915.

REPORTED IN VOLUME SEVENTY, FLORIDA REPORTS.

Ex parte W. C. Tully et al.:

W. C. Tully and A. E. Tully were charged with rape upon a warrant issued by the County Judge of Leon County and procured original proceedings in habeas corpus before a Justice of the Supreme Court and were remanded to the custody of the sheriff of Leon County September 23, 1914. Reported in 70 Fla. 1, 66 So. 296.

Seth Brunson v. State:

Seth Brunson was convicted in the Criminal Court of Record of Duval County of assault with intent to rape, Judge James M. Peeler presiding. Upon writ of error judgment was reversed July 18, 1915. Reported in 70 Fla. 6, 69 So. 49.

Norman Spottswood v. State:

Norman Spottswood was convicted in the Circuit Court of Santa Rosa County of manslaughter, Judge J. Emmet Wolfe presiding. Upon writ of error judgment was affirmed July 18, 1915. Reported in 70 Fla. 7, 69 So. 69.

Jim Hall v. State:

Jim Hall was convicted in the Circuit Court of Lafayette County of murder in the first degree, Judge M. F. Horne presiding. Upon writ of error judgment was affirmed June 1, 1915. Rehearing denied October 13, 1915. Reported in 70 Fla. 48, 69 So. 692.

Francis Parker v. State:

Francis Parker was convicted in the Circuit Court of Pinellas County of having carnal intercourse with an un-

married female under the age of eighteen years, Judge F. M. Robles presiding. Upon writ of error judgment was affirmed July 13, 1915. Reported in 70 Fla. 152, 69 So. 696.

Ed Sloan v. State:

Ed Sloan was convicted in the Circuit Court of Volusia County of murder in the first degree, Judge James W. Perkins presiding. Upon writ of error judgment was reversed July 13, 1915. Reported in 70 Fla. 163, 69 So. 871.

W. H. Hoskins v. State:

W. H. Hoskins was convicted in the Circuit Court of Jackson County of murder in the first degree, Judge D. J. Jones presiding. Upon writ of error judgment was affirmed July 13, 1915. Reported in 70 Fla. 186, 69 So. 701.

John Mathis, A. C. Harrison and J. C. McDonald v. State:

John Mathis, A. C. Harrison and J. C. McDonald were convicted in the Criminal Court of Record of Hillsborough County of the larceny of a heifer, Judge Lee J. Gibson presiding. Upon writ of error judgment was affirmed as to John Mathis and A. C. Harrison, and writ of error dismissed as to J. C. McDonald, July 13, 1915. Reported in 70 Fla. 194, 69 So. 697.

William Young v. State:

William Young was convicted in the Circuit Court of Franklin County of assault with intent to commit rape, Judge E. C. Love presiding. Upon writ of error judgment was affirmed October 26, 1915. Reported in 70 Fla. 211, 70 So. 19.

Richard Zowe v. State:

Richard Zowe was convicted in the Circuit Court of Volusia County of manslaughter, Judge W. Perkins presiding. Upon writ of error judgment was affirmed October 26, 1915. Reported in 70 Fla. 214, 70 So. 18.

Pinkey Sloan v. State:

Pinkey Sloan was convicted in the Circuit Court of Orange County of manslaughter, Judge James W. Perkins presiding. Upon writ of error judgment was reversed October 26, 1915. Reported in 70 Fla. 216, 70 So. 23.

Oliver Niblack, Doll Lewis and Brewster Ellis v. State:

Oliver Niblack et al. was convicted of murder in the second degree and Doll Lewis and Brewster Ellis were convicted of manslaughter in the Circuit Court of Columbia County, Judge M. F. Horne presiding. Upon writ of error judgment was affirmed November 2, 1915. Rehearing denied December 21, 1915. Reported in 70 Fla. 227, 70 So. 415.

E. McDonald v. State:

E. McDonald was convicted in the Criminal Court of Record of Hillsborough County of intending to procure a miscarriage of a woman, Judge Lee J. Gibson presiding. Upon writ of error judgment was affirmed November 2, 1915. Reported in 70 Fla. 250, 70 So. 24.

Lonnie Byrd v. State:

Lonnie Byrd was convicted in the Circuit Court of Jackson County of knowingly receiving stolen goods, Judge D. J. Jones presiding. Upon writ of error judgment was affirmed November 4, 1915. Reported in 70 Fla. 264, 70 So. 24.

Ex parte Adolph Pricha:

Adolph Pricha was held under a warrant issued by the County Judge of Duval County, charging him with the violation of Chapter 6860 of the Laws of 1915, the Davis Package Law. Upon original proceedings in habeas corpus before the Supreme Court petitioner was remanded. Opinion filed November 4, 1915. Rehearing denied December 15, 1915. Reported in 70 Fla. 265, 70 So. 406.

J. J. Pelham v. State:

J. J. Pelham was convicted in the Circuit Court of Jackson County, of murder in the second degree, Judge D. J. Jones presiding. Upon writ of error judgment was affirmed November 10, 1915. Reported in 70 Fla. 295, 70 So. 87.

Florian Reuben Crawford v. State:

Florian Reuben Crawford was convicted in the Circuit Court of Dade County of murder in the first degree, Judge Couper Gibbs presiding *pro hac vice*. Upon writ of error judgment was reversed November 17, 1915, and new trial ordered. Reported in 70 Fla. 323, 70 So. 374.

Ex parte Thomas Powell:

Thomas Powell was arrested by the sheriff of Levy County under a commitment charging him with unlawfully engaging in the business of retail dealer in salt water fish without first having paid the license tax required by Chapter 6877, Laws of 1915. Upon a hearing by petition in original proceedings in habeas corpus in the Supreme Court Powell was remanded to custody. Opinion filed November 18, 1915. Re-hearing denied December 21, 1915. Reported in 70 Fla. 363, 70 So. 392.

James Brunson v. State:

James Brunson was convicted in the Criminal Court of Record of Dade County of an attempt to bribe an officer, Judge J. L. Billingsley presiding. Upon writ of error judgment was reversed November 19, 1915. Reported in 70 Fla. 387, 70 So. 390.

Herbert E. Fine v. State:

Herbert E. Fine was convicted in the Circuit Court of Dade County of murder in the first degree, Judge George Couper Gibbs presiding *pro hac vice*. Upon writ of error judgment was reversed November 19, 1915, and new trial granted. Reported in 70 Fla. 412, 70 So. 379.

Clara Mumford v. State:

Clara Mumford was convicted in the Circuit Court of Seminole County of murder, Judge Jas. W. Perkins presiding. Upon writ of error judgment was reversed November 23, 1915. Reported in 70 Fla. 424, 70 So. 399.

Ex parte Guisippe Gilletti:

Guisippe Gilletti was arrested by the sheriff of Franklin County upon a warrant charging him and others with removing oysters from public oyster bars without first having paid the license as provided by Section 6877, Laws of 1915. Upon a hearing brought by habeas corpus proceeding in the Supreme Court, petitioner was remanded to custody. Decision filed December 8, 1915. Reported in 70 Fla. 442, 70 So. 446.

Reuben Lampkin v. State:

Reuben Lampkin was convicted in the Court of Record of Escambia County of robbery while armed with a dangerous weapon and with intent, if resisted, to kill and

main the person robbed, Judge Kirke Monroe presiding. Upon writ of error judgment was affirmed December 8, 1915. Reported in 70 Fla. 448, 70 So. 440.

Dick Bellinger v. State:

Dick Bellinger was convicted in the Circuit Court of Suwannee County of the larceny of a steer, Judge M. F. Horne presiding. Upon writ of error judgment was affirmed December 10, 1915. Reported in 70 Fla. 464, 70 So. 438.

Louis Nims, alias Chip Nims, v. State:

Louis Nims, alias Chip Nims, was convicted in the Circuit Court of Leon County of murder in the first degree, Judge E. C. Love presiding. Upon writ of error judgment was reversed December 16, 1915, and new trial ordered. Reported in 70 Fla. 530, 70 So. 565.

Doug Kirkland v. State:

Doug Kirkland was convicted in the Circuit Court of Jackson County of manslaughter, Judge D. J. Jones presiding. Upon writ of error judgment was affirmed December 21, 1915. Reported in 70 Fla. 584, 70 So. 592.

Thomas Salon v. State:

Thomas Salon was convicted in the Criminal Court of Record of Hillsborough County of violating the law relative to lottery prizes, gifts and drawings, Judge Lee J. Gibson presiding. Upon writ of error judgment was reversed January 6, 1916. Reported in 70 Fla. 622, 70 So. 603.

John Robinson v. State:

John Robinson was convicted in the Circuit Court of Volusia County of murder in the first degree, Judge Jas. W. Perkins presiding. Upon writ of error judgment was affirmed January 6, 1916. Reported in 70 Fla. 628, 70 So. 595.

Robert Lee Walker v. State:

Robert Lee Walker was convicted of an offense in the Circuit Court of Alachua County, Judge J. T. Wills presiding. Upon motion of the Attorney General writ of error was dismissed at cost of Alachua County.

Melvin Fort v. State:

Melvin Fort was convicted of an offense in the Circuit Court of Alachua County, Judge J. T. Wills presiding. Upon motion of Attorney General writ of error was dismissed at cost of Alachua County.

Ransom McDonald v. State:

Ransom McDonald was convicted in the Circuit Court of Alachua County of an offense, Judge Jas. T. Wills presiding. Writ of error was dismissed on praecipe of counsel for plaintiff in error September 16, 1915.

JANUARY TERM, 1916.

REPORTED IN VOLUME SEVENTY-ONE FLORIDA REPORTS.

Dan Smith v. State:

Dan Smith was convicted in the Circuit Court of Jackson County of being an accessory after the fact to murder

committed by one Levi Hart, Judge D. J. Jones presiding. Upon writ of error judgment was reversed January 31, 1916, because of defective indictment. Reported in 71 Fla. 97, 70 So. 943.

Tom Foster v. J. W. Perry, Sheriff:

This is a case of habeas corpus by Tom Foster against J. W. Perry, Sheriff, brought in the Circuit Court of Columbia County, Judge Mallory F. Horne presiding. Upon writ of error judgment of the lower court remanding Foster was reversed February 15, 1916, with directions to discharge petitioner from custody. Reported in 71 Fla. 155, 70 So. 1007.

John Jackson v. State:

John Jackson was convicted in the Circuit Court of Walton County of murder in the second degree, Judge Cephas L. Wilson presiding. Upon writ of error judgment was affirmed February 15, 1916. Reported in 71 Fla. 189, 71 So. 41.

Jesse Gorey v. State:

Jesse Gorey was convicted in the Criminal Court of Record of Volusia County of having carnal intercourse with an unmarried female under eighteen years of age, Judge Bert Fish presiding. Upon writ of error judgment was affirmed February 15, 1916. On Petition for rehearing April 5, 1916. Reported in 71 Fla. 195, 71 So. 328.

George W. Russell v. State:

George W. Russell brought habeas corpus proceedings in the Circuit Court of Duval County, Judge Daniel A. Simmons presiding to admit him to bail. The court denied the bail and remanded Russell to the custody of the

Sheriff of Duval County. Upon writ of error the judgment of the trial court was reversed February 15, 1916. Reported in 71 Fla. 236, 71 So. 27.

Ex parte Lee Perry:

This is a case of original proceedings in habeas corpus of Lee Perry. He was arrested and imprisoned in the county jail of Volusia County for violation of Chapter 6877, Laws of 1915. Upon a hearing before the Supreme Court the writ was discharged and petitioner remanded. Opinion filed February 23, 1916. Reported in 71 Fla. 250, 71 So. 174.

Bert Colson v. State:

Bert Colson was convicted in the Criminal Court of Record of Hillsborough County of attempting to bribe a juror, Judge Lee J. Gibson presiding. Upon writ of error judgment was reversed March 1, 1916. Reported in 71 Fla. 267, 71 So. 277.

Manan Land v. State:

Manan Land was convicted in the Circuit Court of Madison County of Unlawfully withholding support from his wife and infant child, Judge M. F. Horne presiding. Upon writ of error judgment was affirmed March 1, 1916. Reported in 71 Fla. 270, 71 So. 279.

Archie Miller, alias Henry Harper, v. State:

Archie Miller, alias Henry Harper, was convicted in the Circuit Court of Palm Beach County of forgery, Judge H. Pierre Branning presiding. Upon writ of error judgment was reversed March 2, 1916. Reported in 71 Fla. 378, 71 So. 280.

J. M. Jackson v. State:

J. M. Jackson was charged in Hillsborough County with permitting himself to be bribed in the performance of his official duties. He applied for a writ of habeas corpus in the Circuit Court of Hillsborough County, Judge F. M. Robles presiding. The writ was discharged and petitioner remanded to custody. Upon writ of error the judgment discharging said writ and remanding petitioner was affirmed March 3, 1916. Rehearing denied April 7, 1916. Reported in 71 Fla. 342, 71 So. 330.

Nathan Edwards v. State:

Nathan Edwards was convicted in the Circuit Court of Palm Beach County of manslaughter, Judge H. Pierre Branning, presiding. Upon writ of error judgment was affirmed March 15, 1916. Reported in 71 Fla. 354, 71 So. 331.

J. D. Raborn v. State:

J. D. Raborn was convicted in the Circuit Court of Walton County of unlawfully withholding means of support from his minor children, Judge C. L. Wilson presiding *pro hac vice*. Upon writ of error judgment was reversed April 5, 1916. Reported in 71 Fla. 387, 72 So. 463.

Herbert G. Stone v. State:

Herbert G. Stone was convicted in the Circuit Court of Palm Beach County of an assault with intent to commit rape, Judge O. K. Reaves presiding, *pro hac vice*. Upon writ of error judgment was affirmed April 12, 1916. Reported in Fla. 514, 71 So. 634.

John J. Mendenhall v. State:

John J. Mendenhall was convicted in the Circuit Court

of Pinellas County of murder in the first degree with recommendation to mercy, Judge O. K. Reaves presiding. Upon writ of error judgment was affirmed April 18, 1916. Reported in 71 Fla. 556, 72 So. 202.

George E. Faison v. E. D. Vestal:

Application by George E. Faison for writ of habeas corpus to E. D. Vestal, City Marshal, was made in the Circuit Court of Hillsborough County, Judge F. M. Robles presiding, who remanded the petitioner to custody. Upon writ of error the judgment of the lower court was affirmed April 16, 1916. Reported in 71 Fla. 562, 71 So. 759.

Claude Doke v. State:

Claude Doke was convicted in the Circuit Court of Alachua County of manslaughter, Judge J. T. Willis presiding. Upon writ of error judgment was affirmed May 18, 1916. Reported in 71 Fla. 633, 71 So. 917.

J. A. Smith v. State:

J. A. Smith was convicted in the Circuit Court of Jackson County of malpractice in office, Judge E. C. Love presiding *pro hac vice*. Upon writ of error judgment was reversed May 18, 1916, and remanded for proper sentence. Reported in 71 Fla. 639, 71 So. 915.

Charles H. Haynes v. State:

Charles H. Haynes was convicted in the Circuit Court of Hillsborough County of murder in the first degree, Judge F. M. Robles presiding. Upon writ of error judgment was reversed April 28, 1916. Reported in 71 Fla. 585, 72 So. 180.

A. L. Barineau v. State:

A. L. Barineau was convicted in the Circuit Court of Leon County of being a common liquor dealer in violation of the prohibition law, Judge E. C. Love presiding. Upon writ of error judgment was affirmed May 31, 1916. Reported in 71 Fla. 598, 72 So. 179.

John Toees v. State:

John Toees was convicted in the Circuit Court of Duval County, Judge George Couper Gibbs presiding. Upon motion of Attorney General writ of error was dismissed at the cost of Duval County. Reported in 71 Fla. 706.

Ex parte James W. Moneyham:

James W. Moneyham was convicted in the Circuit Court of Jackson County of an offense, Judge C. L. Wilson presiding. Upon motion of Attorney General writ of error was dismissed at cost of Jackson County. Reported in 71 Fla. 709.

F. N. Andrews v. State:

Writ of error was taken to the judgment of the Circuit Court of Bradford County. Upon motion of Attorney General writ of error was dismissed at the cost of Bradford County. Upon motion of Attorney General writ of error was dismissed at the cost of Bradford County. Reported in 71 Fla. 712.

JUNE TERM, 1916.

WILL BE REPORTED IN SEVENTY-TWO FLORIDA REPORTS.

Walter Barrentine and Millie Barrentine v. State:

Walter Barrentine and Millie Barrentine were con-

victed in the Circuit Court of Jackson County of murder in the first degree, Judge C. L. Wilson presiding. Upon writ of error judgment was affirmed June 13, 1916.

George W. Koon v. State:

George W. Koon was convicted in the Criminal Court of Record of Duval County of assault with intent to murder, Judge James B. Peeler presiding. Upon writ of error judgment was affirmed August 7, 1916.

Ed. M. Morey v. State:

Ed. M. Morey was convicted in the Circuit Court of Hernando County of manslaughter, Judge W. S. Bullock presiding. Upon writ of error judgment was reversed July 6, 1916.

Nancy Malone v. State:

Nancy Malone was convicted in the Circuit Court of Taylor County of murder, Judge Mallory F. Horne presiding. Upon writ of error judgment was reversed June 27, 1916.

Horace Ryals v. State:

Horace Ryals was convicted in the Circuit Court of Polk County of manslaughter, Judge F. A. Whitney presiding. Upon writ of error judgment was affirmed June 27, 1916.

Jim Roberts, Percy Roberts and Brady Roberts v. State:

Jim Roberts, Percy Roberts and Brady Roberts were convicted in the Circuit Court of Santa Rosa County of murder in the first degree, without recommendation to mercy, Judge A. G. Campbell presiding. Upon writ of error judgment was affirmed August 1, 1916.

John Ashley v. State:

John Ashley was convicted in the Circuit Court of Dade County of murder in the first degree, Judge H. Pierre Branning presiding. Upon writ of error judgment was reversed August 2, 1916.

J. C. Griffin v. State:

J. C. Griffin was convicted in the Circuit Court of Jackson County of assault with intent to commit manslaughter, Judge C. L. Wilson presiding. Upon writ of error judgment was affirmed July 6, 1916.

Marcus Pate and Emmett Pate v. State:

Marcus Pate and Emmett Pate were convicted in the Circuit Court of Bay County of the larceny of an animal, Judge D. J. Jones presiding. Upon writ of error judgment was reversed July 25, 1916.

John Smith v. State:

John Smith was convicted in the Circuit Court of Walton County of changing the mark of an animal, Judge A. G. Campbell presiding. Upon writ of error judgment was affirmed November 21, 1916.

Robert Adams v. State:

Robert Adams was convicted in the Circuit Court of Lafayette County of perjury, Judge Mallory F. Horne presiding. Upon writ of error judgment was affirmed June 27, 1916.

Nathan Edwards v. State:

Nathan Edwards was convicted in the Circuit Court of Clay county of murder in the second degree, Judge George Couper Gibbs presiding. Upon writ of error judgment was affirmed November 21, 1916.

Tom Watson v. State:

Tom Watson was convicted in the Circuit Court of Walton County of carnal intercourse with unmarried female under the age of eighteen years, Judge A. G. Campbell presiding. Upon writ of error judgment was reversed June 20, 1916.

O. A. Pickrell v. J. P. Galloway, Sheriff:

O. A. Pickerell was committed by the County Judge of Marion County upon the charge of desertion and withholding means of support from his wife and procured writ of habeas corpus directed to J. P. Galloway, Sheriff, from the Circuit Court of Marion County, Judge W. S. Bullock presiding. Upon writ of error judgment remanding to custody was affirmed November 11, 1916.

Ex parte Harry B. Clarkson:

Harry B. Clarkson was indicted for embezzlement by the grand jury of Marion County and upon trial a verdict of acquittal was directed. Immediately another indictment was presented charging embezzlement upon a different date to which a plea of former acquittal was filed, to which plea the State demurred, said demurrer being sustained by the Circuit Court, Judge W. S. Bullock presiding, an application for writ of habeas corpus was presented to and granted by the Supreme Court. Upon consideration of the case by the Supreme Court the writ was discharged and the petitioner remanded, August 9, 1916.

J. A. Herndon v. State:

J. A. Herndon was convicted in the Circuit Court of Hillsborough County of perjury, Judge F. M. Robles presiding. Upon writ of error judgment was affirmed July 25, 1916.

Willis Baxley v. State:

Willis Baxley was convicted in the Circuit Court of Marion County of manslaughter, Judge W. S. Bullock presiding. Upon writ of error judgment was affirmed August 16, 1916.

John A. P. Harris v. State:

John A. P. Harris was convicted in the Circuit Court of Pasco county of having intercourse with an unmarried female under the age of eighteen years, Judge O. K. Reaves presiding. Upon writ of error judgment was affirmed July 26, 1916.

C. Benton Dean v. City of Miami:

C. Benton Dean was convicted in the Municipal Court the City of Miami of a violation of an ordinance of said City, and applied for writ of habeas corpus to the Circuit Court of Dade County, which was denied, Judge H. Pierre Branning presiding. Upon writ of error judgment was affirmed July 27, 1916.

Herbest Spanish and Rosa Spanish v. State:

Herbert Spanish and Rosa Spanish were convicted in the Circuit Court of Duval County of manslaughter, Judge George Couper Gibbs presiding. Upon writ of error judgment was affirmed November 21, 1916.

Nathan Barton v. State:

Nathan Barton was convicted in the Circuit Court of Taylor County of murder in the second degree, Judge Mallory F. Horne presiding. Upon writ of error judgment was affirmed November 21, 1916.

Sallie Furlow v. State:

Sallie Furlow was convicted in the Circuit Court of Taylor County of manslaughter, Judge Mallory F. Horne presiding. Upon writ of error judgment was reversed December 12, 1916.

May Belle Richardson v. State:

May Belle Richardson was convicted in the Circuit Court of Broward County of manslaughter, Judge H. Pierre Branning presiding. Upon writ of error judgment was affirmed August 8, 1916.

James M. Disney v. State:

James M. Disney was convicted in the Circuit Court of Orange County of manslaughter, Judge James W. Perkins presiding. Upon writ of error judgment was affirmed December 19, 1916.

Ruth Smith v. State:

Ruth Smith was convicted in the Circuit Court of Duval County of murder, Judge George Couper Gibbs presiding. Upon writ of error judgment was affirmed December 12, 1916.

Willie Turner v. State:

Willie Turner was convicted in the Circuit Court of Alachua County of murder, Judge James T. Wills presiding. Writ of error was sued out and upon motion of Attorney General was dismissed at cost of Alachua County.

Z. Graham v. State:

Z. Graham was convicted in the Circuit Court of Marion County of assault to commit murder in the second degree, Judge W. S. Bullock presiding. Upon writ of error judgment was affirmed December 20, 1916.

Calvin Gray v. State:

Calvin Gray was convicted in the Circuit Court of Walton County of murder in the second degree, Judge A. G. Campbell presiding. Upon writ of error judgment was reversed December 12, 1916.

F. J. Morton v. State:

F. J. Morton was convicted in the Criminal Court of Record of Duval County of assault with intent to have carnal intercourse, Judge James B. Peeler presiding. Upon writ of error judgment was affirmed November 21, 1916.

Armando Flores v. State:

Armando Flores had judgment rendered against him in the Circuit Court of Hillsborough County in bastardy proceedings, Judge F. M. Robles presiding. Upon writ of error judgment reversed November 21, 1916.

Gabe Lippman v. State:

Forty-two cases of liquors belonging to Gabe Lippman were seized by the Sheriff of Dade County, and judgment of forfeiture entered by the Circuit Court of Dade County, Judge H. Pierre Branning presiding. Upon writ of error judgment was reversed December 5, 1916.

R. A. Hawthorn v. State:

R. A. Hawthorn was convicted in the Circuit Court of Manatee County of assault with intent to murder, Judge O. K. Reaves presiding. Upon writ of error judgment was affirmed December 20, 1916.

James W. Moneyham v. State:

James W. Moneyham was convicted in the County Judge's Court of Jackson County of entering enclosed premises of another after being forbidden, and made application to the Circuit Court of said County, Judge C. L. Wilson presiding, for writ of habeas corpus and upon hearing was remanded. Upon writ of error judgment was affirmed November 3, 1916.

TABULATED REPORT OF CRIMINAL CASES IN WHICH OPINIONS WERE FILED BY THE
SUPREME COURT DURING THE YEARS 1915 AND 1916 DURING ITS JAN-
UARY TERM, 1915, AND REPORTED IN SIXTY-NINTH FLORIDA REPORT.

Name of Offender.	Character of Offense.	County.	Court	Disposition
Jim Bivens.....	Murder 1st degree.....	Clay	Circuit	Affirmed
Floyd Blackwell.....	Murder 2nd degree.....	Lake	Circuit	Affirmed
C. A. Boyett.....	Murder 2nd degree.....	Jackson	Circuit	Affirmed
Vander Brooks.....	Common liquor dealer.....	St. Lucie	Circuit	Reversed
Isaac Coley.....	Murder 2nd degree.....	Clay	Circuit	Affirmed
Math Davis, B. M. Frank- lin, and Ben McDaniel...	Murder 2nd degree.....	Calhoun	Circuit	Affirmed
John Flowers and Ephriam Lyle.....	Larceny of a cow.....	Duval	Criminal	Affirmed
Will Goff.....		Clay	Circuit	Dismissed
Ben Holden.....	Murder 1st degree.....	volusia	Circuit	Affirmed
Louis Kilgore.....	Intercourse with unmarried female under 18.....	Orange	Criminal	Affirmed
James Lee, Sr.....	Murder 1st degree.....	Nassau	Circuit	Affirmed

A. D. Lindsay.....	Common liquor dealer.....	Santa Rosa	Circuit	Affirmed
Ed Maddox.....	Murder 1st degree.....	Escambia	Circuit	Affirmed
James Moneyham.....	Obtaining goods by false and fraudulent pretenses.....	Jackson	Circuit	Reversed
Carrie Robinson.....	Murder 1st degree.....	Columbia	Circuit	Affirmed
Emmett Thomas.....	Murder 1st degree.....	Escambia	Circuit	Affirmed
W. C. Tully, Jr.....	Assault with intent to commit rape	Leon	Circuit	Affirmed
Gustave Harrold Watkins..	Withholding support from minor children	Hillsborough	Criminal	Reversed
Hardy Webb.....	Obtaining property by false pre- tenses	Jackson	Circuit	Reversed
W. B. Welch.....	Habeas corpus.....	Alachua	Circuit	Affirmed
G. W. West.....	Larceny of heifer.....	Holmes	Circuit	Affirmed
Arthur Winsley.....	Murder 1st degree.....	Clay	Circuit	Affirmed
Shelby Wise, alias Shebby Wise.....	Murder 1st degree.....	Palm Beach	Circuit	Affirmed

CASES DISPOSED OF DURING JUNE TERM 1915 AND REPORTED IN SEVENTIETH
FLORIDA REPORT.

Name of Offender.	Character of Offense.	County.	Court	Disposition
W. C. Tully and A. E. Tully.	Rape (Habeas Corpus)	Leon	Supreme	Remanded
Seth Brunson.....	Assault with intent to rape.....	Duval	Criminal	Reversed
Norman Spottswood.....	Manslaughter	Santa Rosa	Circuit	Affirmed
Jim Hall.....	Murder 1st degree.....	Lafayette	Circuit	Affirmed
Francis Parker.....	Intercourse with unmarried female under 18.....	Pinellas	Circuit	Affirmed
Ed Sloan.....	Murder 1st degree.....	Volusia	Circuit	Reversed
W. H. Hoskins.....	Murder 1st degree.....	Jackson	Circuit	Affirmed
John Mathis,				Affirmed
A. C. Harrison, and				Affirmed
J. C. McDonald.....	Larceny of heifer.....	Hillsborough	Criminal	Dismissed
William Young.....	Assault with intent to rape.....	Franklin	Circuit	Affirmed
Richard Zowe.....	Manslaughter	Volusia	Circuit	Affirmed
Pinkey Sloan.....	Manslaughter	Orange	Circuit	Reversed
Oliver Niblack,	Murder 2nd degree.....			

Doll Lewis and Brewster				
Ellis	Manslaughter	Columbia	Circuit	Affirmed
E. McDonald	Intending to procure a miscarriage of a woman	Hillsborough	Criminal	Affirmed
Lonnie Byrd	Knowingly receiving stolen goods.	Jackson	Circuit	Affirmed
Ex parte Adolph Pricha....	Violation Chap. 6860, Laws 1915— Davis Package Law (Habeas Corpus	Duval	Supreme	Remanded
J. J. Pelham	Murder 2nd degree	Jackson	Circuit	Affirmed
Florian Reuben Crawford..	Murder 1st degree	Dade	Circuit	Reversed
Ex parte Thomas Powell....	Engaging in business of retail fish dealer without paying license tax (Habeas Corpus)	Duval	Supreme	Remanded
James Brunson	Attempt to bribe an officer	Dade	Criminal	Reversed
Herbert E. Fine	Murder 1st degree	Dade	Circuit	Reversed
Mara Mumford	Murder	Seminole	Circuit	Reversed
Ex parte Guisippe Gilletti..	Removing oysters from public bars without paying license (Habeas Corpus)	Franklin	Supreme Court of Record	Remanded

CASES DISPOSED OF DURING JUNE TERM 1915 AND REPORTED IN SEVENTIETH
FLORIDA REPORT— (Continued).

Name of Offender.	Character of Offense.	County.	Court	Disposition
Reuben Lampkin.....	Robbery while armed with dangerous weapon	Escambia		Affirmed
Dick Bellinger.....	Larceny of steer.....	Suwannee	Circuit	Affirmed
Louis Nims, alias Chip Nims	Murder 1st degree.....	Leon	Circuit	Reversed
Doug Kirkland.....	Manslaughter	Jackson	Circuit	Affirmed
Thomas Salon.....	Violating law relative to lottery prizes, etc.....	Hillsborough	Criminal	Reversed
John Robinson.....	Murder 1st degree.....	Volusia	Circuit	Affirmed
Robert Lee Walker.....		Alachua	Circuit	Dismissed
Melvin Fort.....		Alachua	Circuit	Dismissed
Ransom McDonald.....		Alachua	Circuit	Dismissed

CASES DISPOSED OF DURING JANUARY TERM 1916 AND REPORTED IN SEVENTY-FIRST
FLORIDA REPORT.

Name of Offender.	Character of Offense.	County.	Court	Disposition
Dan Smith.....	Accessory after the fact to murder.	Jackson	Circuit	Reversed
Tom Foster.....	Habeas Corpus.....	Columbia	Circuit	Reversed
John Jackson.....	Murder second degree.....	Walton	Circuit	Affirmed
Jesse Gorey.....	Intercourse with unmarried female under 18.....	Volusia	Criminal	Affirmed
George W. Russell.....	Habeas Corpus.....	Duval	Circuit	Remanded
Ex parte Lee Perry.....	Violation of Chapter 6877, Laws of 1915 (Habeas Corpus).....	Volusia	Supreme	Remanded
Bert Colson.....	Attempting to bribe a juror.....	Hillsborough	Criminal	Reversed
Manan Land.....	Withholding support from wife and child.....	Madison	Circuit	Affirmed
Archie Miller, alias Henry Harper.....	Forgery.....	Palm Beach	Circuit	Reversed

CASES DISPOSED OF DURING JANUARY TERM 1916 AND REPORTED IN SEVENTY-FIRST
FLORIDA REPORT—(Continued).

Name of Offender.	Character of Offense.	County.	Court	Disposition
J. M. Jackson.....	Permitting himself to be bribed in performance of official duties...	Hillsborough	Circuit	Remanded
Nathan Edwards.....	Manslaughter	Palm Beach	Circuit	Affirmed
J. D. Raborn.....	Withholding means of support from minor children.....	Walton	Circuit	Reversed
Herbert G. Stone.....	Assault with intent to rape.....	Palm Beach	Circuit	Affirmed
John J. Mendenhall.....	Murder first degree with recom- mendation to mercy.....	Pinellas	Circuit	Affirmed
George E. Faison.....	Habeas Corpus.....	Hillsborough	Circuit	Remanded
Claude Doke.....	Manslaughter	Alachua	Circuit	Affirmed
J. A. Smith.....	Malpractice in office.....	Jackson	Circuit	Reversed
Charles H. Haynes.....	Murder 1st degree.....	Hillsborough	Circuit	Reversed
A. L. Barineau.....	Common liquor dealer.....	Leon	Circuit	Affirmed
John Toees.....		Duval	Circuit	Dismissed

Ex parte Jas. W. Moneyham		Jackson	Circuit	Dismissed
F. N. Andrews.....		Bradford	Circuit	Dismissed

CASES DISPOSED OF DURING JUNE TERM 1916 AND TO BE REPORTED IN SEVENTY-TWO
FLORIDA REPORTS.

Name of Offender.	Character of Offense.	County.	Court	Disposition
Walter Barrentine and Mil- lie Barrentine.....	Murder 1st degree.....	Jackson	Circuit	Affirmed
George W. Koon.....	Assault to murder.....	Duval	Criminal	Affirmed
Ed M. Morey.....	Manslaughter	Hernando	Circuit	Reversed
Nancy Malone.....	Murder	Taylor	Circuit	Reversed
Horace Ryals.....	Manslaughter	Polk	Circuit	Affirmed
Jim Roberts, Percy Roberts and Brady Roberts.....	Murder 1st degree.....	Santa Rosa	Circuit	Affirmed
John Ashley.....	Murder 1st degree.....	Dade	Circuit	Reversed
J. C. Griffin.....	Assault to commit manslaughter..	Jackson	Circuit	Affirmed
Marcus Pate and Emmett Pate.....	Larceny of animal.....	Bay	Circuit	Reversed
John Smith.....	Changing mark of animal.....	Walton	Circuit	Affirmed
Robert Adams.....	Perjury	LaFayette	Circuit	Affirmed

Nathan Edwards.....	Murder 2nd degree.....	Clay	Circuit	Affirmed
Tom Watson.....	Carnal intercourse.....	Walton	Circuit	Reversed
O. A. Pickerell.....	Desertion of wife (Habeas Corpus)	Marion	Circuit	Affirmed
Harry B. Clarkson.....	Embezzlement (Habeas Corpus) ..	Marion	Supreme	Remanded
J. A. Herndon.....	Perjury	Hillsborough	Circuit	Affirmed
Willis Baxley.....	Manslaughter	Marion	Circuit	Affirmed
John A. P. Harris.....	Carnal intercourse	Pasco	Circuit	Affirmed
C. Benton Dean.....	Violating City Ordinance of City of Miami (Habeas Corpus).....	Dade	Circuit	Affirmed

CASES DISPOSED OF DURING JUNE TERM 1916 AND TO BE REPORTED IN SEVENTY-TWO
FLORIDA REPORTS—(Continued).

Name of Offender.	Character of Offense.	County.	Court	Disposition
Herbert Spanish and Rosa Spanish.....	Manslaughter	Duval	Circuit	Affirmed
Nathan Barton.....	Murder 2nd degree.....	Taylor	Circuit	Affirmed
Sallie Furlow.....	Manslaughter	Taylor	Circuit	Reversed
May Belle Richardson.....	Manslaughter	Broward	Circuit	Affirmed
James M. Disney.....	Manslaughter	Orange	Circuit	Affirmed
Ruth Smith.....	Murder	Duval	Circuit	Affirmed
Willie Turner.....	Murder	Alachua	Circuit	Dismissed
Z. Graham.....	Assault to commit murder in 2nd degree	Marion	Circuit	Affirmed
Calvin Gray.....	Murder 2nd degree.....	Walton	Circuit	Reversed
F. J. Morton.....	Assault to have carnal intercourse.	Duval	Criminal	Affirmed
Armando Flores.....	Bastardy	Hillsborough	Circuit	Reversed
Gabe Lipman.....	Liquor seizure.....	Dade	Circuit	Reversed

R. A. Hawthorn.....	Assault to murder.....	Manatee	Circuit	Affirmed
James W. Moneyham.....	Trespass (Habeas Corpus).....	Jackson	Circuit	Affirmed

1. The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the structure of the atom is a function of the atomic number.

OFFICIAL OPINIONS.

FOR THE YEARS 1915 AND 1916.

Opinions to Governor.

INELIGIBILITY OF MEMBER OF LEGISLATURE OF 1915 TO BE APPOINTED SUPERVISING INSPECTOR OF NAVAL STORES.

Tallahassee, Fla., June 9, 1915.

*Honorable Park Trammell, Governor,
Tallahassee, Florida.*

Dear Sir:—

Yours of the 4th inst., has been received.

I note your inquiry, as follows:

"The Legislature of 1915 has enacted a statute relating to the appointment of Naval Stores Inspectors, prescribing their duties and fixing their compensations, providing for the appointment and duties and compensation of a Supervising Inspector of Naval Stores, etc.

"Section 7 of said Act provides, 'that upon the passage and approval of this Act the Governor shall appoint a Supervising Inspector of Naval Stores * * * who shall have general supervision and direction of all inspectors of naval stores * * * shall also have supervision of all naval stores plants, yards, warehouses, etc.' and prescribing certain other duties which he shall perform.

"Section 8 of said statute provides that 'The Supervising Inspector of Naval Stores shall give bond in the sum of \$5,000' etc.

"Section 10 of the said Act provides 'The Supervising Inspector of Naval Stores shall receive as compensation for his said services one-half cent for each barrel of rosin, of spirits of turpentine which may be inspected under the laws of this State' and provides a method of collecting such fees.

"Please advise me whether, under the provisions of Section 5 of Article III of the State Constitution, a member of the Legislature which enacted the said statute is eligible for appointment as such Supervising Inspector of Naval Stores."

The Constitutional provision referred to, that is to say, Section 5 of Article III of the Constitution of this State, is in the following language:

"No senator or member of the house of representatives shall, during the time for which he was elected, be appointed or elected to any civil office under the Constitution of this State, that has been created, or the emoluments whereof shall have been increased, during such time."

In discussing the question, and deciding that one who was a member of the House of Representatives or Senator at the time the act was passed, creating the Board of Control, was not eligible to appointment as a member of such Board, the Supreme Court, in an Advisory Opinion to the Governor, reported in 49 Florida 269, said:

"The purpose of this provision of the organic law was to put it beyond the power of the legislative branch of the government to create official positions to be filled by its members, thereby removing the temptation of an improvident or unwise creation of offices not expressly provided for by the constitution. Under its provisions we think that it is clear that no member of either house of the legislature is eligible to the incumbency of any civil office of

this State that is created during any part of the time for which such member was elected and that such ineligibility continues during the entire time for which such member was elected, and that such member cannot render himself eligible during such time by resigning his legislative membership. Our opinion is that you as Governor cannot constitutionally appoint any member of either house of the present legislative branch of the government to membership on such Board of Control, since the Constitution clearly forbids their being appointed to any such civil office created during the time for which they were elected as members of such legislature."

In the case of State *ex rel.* Clyatt vs. Hocker, 39 Fla. 477, the Supreme Court defines the term "Office" as follows:

"A person in the service of the government who derives his position from a duly and legally authorized election or appointment, whose duties are continuous in their nature and defined by rules prescribed by government, and not by contract, consisting of the exercise of important public powers, trusts or duties, as a part of the regular administration of the government, the place and the duties remaining, though the incumbent dies or is changed, every office in the constitutional meaning of the term implying an authority to exercise some portion of the sovereign power, either in making, executing or administering the laws."

The position of Supervising Inspector of Naval Stores is created by statute, is referred to in the statute as an office, and continues, though the incumbent may die or resign. It is to be filled by appointment made by the Governor, and a commission under the Great Seal of the State must issue to the person appointed who, in order to qualify for the position, must give bond, in the sum mentioned in the statute, in the usual form of official bonds.

These features, considered in connection with the powers conferred and duties imposed upon the incumbent

of the office, in my judgment, constitute the position an office within the meaning of the term as employed in the provision of the Constitution quoted herein.

My opinion, therefore, is that one who was a member of the Legislature at the time the statute creating the position was passed, is not eligible to appointment to such position.

Respectfully submitted,

T. F. WEST,

Attorney General.

MALICIOUS THREATS TO COMPEL A PERSON TO
DO AN ACT AGAINST HIS WILL.

Tallahassee, Fla., September 16, 1915.

*Honorable Park Trammell, Governor,
The Capitol.*

Dear Sir:—

Yours of the 25 ult., enclosing letter from Messrs. Stewart & Stewart and others to you and copy of communication addressed to Roy P. Hamlin, Esq., signed by Messrs. Stewart & Stewart, J. E. Alexander and H. C. Sparkman, has been received.

I note your inquiry as follows:

“I will appreciate you kindly giving me your opinion as to whether or not a statement as set forth in the said communication to Roy P. Hamlin, County Solicitor for Volusia County, constitutes an offense under the provisions of said Section 3261, of the General Statutes of the State of Florida.”

The statement referred to is in the following language:

"DeLand, Florida, August 23, 1915.

"Roy P. Hamlin, Esq.,
"County Solicitor, Volusia County,
"DeLand, Florida.

"Dear Sir:

"We most respectfully beg and call to your attention that a suit was filed a few days ago of Ora Sparkman vs. Hugh C. Sparkman, and that Stewart & Stewart and J. E. Alexander were employed as solicitors for Hugh C. Sparkman, and that an answer was prepared by Stewart & Stewart and J. E. Alexander for Hugh C. Sparkman, and was filed with the Clerk on last Thursday evening, and that in said answer the name of E. L. Smith, Sheriff of Volusia County, was used in the preparation of said defense and as statements made to the said Hugh C. Sparkman by the said Ora Sparkman, and that E. L. Smith, Sheriff of Volusia County, in the presence of Tom P. Stewart, Lee Morris, O. S. Hunter, and other citizens of Volusia County, both on Friday and Saturday, and at different places and in the presence of different parties declared, that he would kill or otherwise inflict great violence upon the body and person of the said Stewart & Stewart, J. E. Alexander and H. C. Sparkman; that unless they would change and eliminate his name from said pleading, which they were not willing to do, that the said threats were made for the purpose of compelling the solicitors in that case and the said Hugh C. Sparkman to alter and change said pleadings so as to eliminate his name, contrary to Section 3261, General Statutes of the State of Florida, which is in words and figures as follows, to-wit:

"Whoever, either verbally or by a written or printed communication, maliciously threatens to accuse another of any crime or offense, or by such communication

maliciously threatens an injury to the person or property of another, with intent thereby to extort money or any pecuniary advantage whatsoever, or with intent to compel the person so threatened, or any other person, to do any act against his will, shall be punished by imprisonment in the State prison not exceeding ten years.'

"We now demand of you that you will investigate this matter, and we hereby tender you the witnesses herein named and other witnesses, if necessary, to prove these threats and ask that you file information against said Smith, as provided by law. Witnesses to prove these facts:

"Tom B. Stewart,

"Lee Morris,

"Gus Woodall,

"George Messimer,

"J. E. Peacock, and

"O. S. Hunter.

"Yours respectfully,

"STEWART & STEWART,

"J. E. ALEXANDER,

"H. C. SPARKMAN."

It will be noted that the statute mentioned is made a part of the statement.

If, in addition to the facts shown by the statement referred to, it should be made to appear that the threats were made maliciously, with intent thereby to accomplish the purpose sought to be accomplished by the threats, a case is, in my judgment, made out under the statutes. *Wallace v. State*, 41 Fla., at pp. 554-555.

It will, however, in my opinion, be necessary to aver and prove that the threats complained of were maliciously made.

The delay in this reply is due to the fact that imme-

diately after receipt of your inquiry I was required to be out of the office for several days on other business.

Yours very truly,

T. F. WEST,
Attorney General.

STATE ATTORNEY APPOINTED BETWEEN SESSIONS OF LEGISLATURE—TERM OF OFFICE.

Tallahassee, Fla., April 14, 1916.

*Honorable Park Trammell, Governor,
Tallahassee, Florida.*

Dear Sir:—

Yours of the 12th instant has been received.

The inquiry, as I understand it, is whether or not an appointee to the office of State Attorney in this State, who is appointed and commissioned after the adjournment of the last preceding session of the legislature will hold office, by virtue of such appointment, beyond the final adjournment of the next ensuing session of the Senate?

This situation is covered, I think, by Section 301 of the General Statutes of 1906, reading as follows:

"301. (217.) Filling vacancies.—In all such cases, and in all other cases in which a vacancy may occur, if the office be a State, district or county office (other than a member or officer of the legislature), it shall be the duty of the Governor to fill such office by appointment, and the person so appointed shall be entitled to take and hold such office until the same shall be filled by an election as provided by law, and in cases requiring the confirmation or the advice and consent of the Senate, the person so appointed may hold until the end of the next ensuing

session of the Senate unless an appointment be sooner made and confirmed and consented to by the Senate."

This statute, it will be noted, was Section 217 of the Revised Statutes of 1892.

In considering a similar question the Supreme Court, in the case of *Simonton v. State*, 44 Fla. 289, at page 317, said:

"Under the present statute, however, Section 217 Revised Statutes, it would be the duty of the Governor to appoint, and such appointee would hold until the end of the next ensuing session of the Senate unless an appointment should be sooner made and confirmed or consented to by the Senate (Executive Communication, 14 Fla. 277), and when the Senate next met it would be the duty of the Governor and Senate to fill the office for the unexpired term under the original power to appoint. With this statute in force the Governor could not grant a commission under Section 7, Article IV for the unexpired term, for the reason that in such a case the statute and the Constitution together would provide a mode of filling the vacancy for the unexpired term."

In an Advisory Opinion to the Governor, in which a similar question was involved, reported in 64 Fla. 16, the court said, at page 20:

"The Constitution clearly contemplates joint action by the Governor and Senate in the matter of these appointments, when possible and as soon as possible, and the provision for a *locum tenens* until the Senate may act requires the construction that the Senate should be permitted to act when next in session however convened."

This opinion was given to the Governor by the Justices of the Supreme Court in reply to an inquiry if it is the duty of the Governor under the Constitution to transmit to the Senate for its action thereon appointments to the offices of Circuit Judge, State Attorney, etc., that have

been made since the adjournment of the last session of the Senate, when the Legislature is convened in extra session by Executive Proclamation.

In the situation stated, my opinion is that an appointee to the office of State Attorney, who is appointed and commissioned after the adjournment of the last preceding session of the legislature, will hold office by virtue of such appointment only to the end of the next ensuing session of the Senate.

Respectfully submitted,

T. F. WEST,
Attorney General

SHERIFFS' FEES WHERE NO INDICTMENT FILED
—COMMISSIONS ON MONEYS DERIVED FROM
HIRE OF COUNTY CONVICTS.

Tallahassee, Fla., April 18, 1916.

*Honorable Park Trammell, Governor,
Tallahassee, Florida.*

Dear Sir:—

Your communication of the 17 instant received, requesting opinion upon the questions contained in a letter attached thereto from Honorable R. L. Kennerly, Sheriff of Putnam County, reading as follows:

“Please advise me on the following law, as the Auditor and myself disagree on the following questions:

“His ruling is, on Criminal Cases, that when no true Bill is found, that the sheriff is entitled to the costs of Executing the Warrant only, but not entitled to his fees for serving the witnesses in the case,

“As I understand the law in Criminal cases, that if the Courts issue and deliver to the sheriff, warrants and sum-

mons for witnesses in Criminal cases, the sheriff is obliged to serve them, and if so obliged to serve such papers, he is entitled to his fees for serving same. Also the Auditors ruling is, that the Sheriff is not entitled to his any commissions on moneys collected for hire of County Convicts. The Chairman of our Board of County Commissioners instructed me, as Sheriff, to keep an account against the Contractor, to collect the moneys and pay same to the County Treasurer, and for such service was to receive 5% Commission."

Answering the first question, will advise that Section 4070 of the General Statutes governs the payment of costs when no indictment is found in cases previously coming before a Justice of the Peace or a County Judge acting in the capacity of committing magistrates. Said section reads as follows:

"County not to pay costs in cases where information is not filed or indictment found.—Whenever a committing magistrate holds to bail or commits any person to answer to a criminal charge in a county court, a criminal court of record, or a circuit court, and an information is not filed nor an indictment found against such person, the costs of such committing trial shall not be paid by the county, except the costs for executing the warrant."

It is noted that only the "costs for executing the warrant" are required to be paid by the County, and this would not include fees for summoning witnesses in the case in a committing magistrate's court. .

Answering the second question, Section 4109 of the General Statutes provides that in the event County convicts are leased "the proceeds arising therefrom shall be paid into the County Treasury as a special fund," etc.

It is seen from the above that the money derived from the hire of convicts is required to be paid into the County

Treasury, and we have no other statute authorizing it to be paid to the Sheriff, nor authorizing the County Commissioners to pay any one a fee for collecting it. This has been the holding of this office for several years.

Respectfully submitted,

T. F. WEST,

Attorney General.

Opinions to Secretary of State.

ACT REQUIRING ONLY ONE LICENSE TAX ON
AUTOMOBILES DOES NOT REPEAL ACT RE-
QUIRING REGISTRATION WITH SECRETARY
OF STATE.

Tallahassee, Fla., July 8, 1915.

*Honorable H. Clay Crawford,
Secretary of State,
Capitol.*

Dear Sir:—

Yours of the 6th inst., has been received.

I note your inquiry as follows:

“Will you please advise this office if Section 2 of Chapter 6881, approved June 4, 1915, which, after grading the license tax on automobiles according to seating capacity, states ‘The payment of one such County license tax in the State of Florida shall exempt the owner or operator from the payment of any other such County or State license tax during the license year’ repeals Chapter 5437, under which automobiles are registered in this Department.”

You will note that Chapter 6881, approved June 4,

1915, does not take effect until October 1, 1915, and that it does not expressly repeal any other statute.

It does not, in my opinion, operate as a repeal of Chapter 5437, approved May 11, 1905.

Respectfully submitted,

T. F. WEST,
Attorney General.

REGISTRATION OF ELECTORS—ENTRY OF
SERIAL NUMBER OF POLL TAX RECEIPT.

Tallahassee, Fla., February 1, 1916.

*Honorable H. Clay Crawford,
Secretary of State,
Tallahassee, Florida.*

Dear Sir:—

I have your communication of January 28 submitting the following inquiry:

“Section 9 of Chapter 6469 as amended by Section 1 of Chapter 6874, Laws of Florida, provides in part as follows:

“That all persons who have heretofore registered or who may hereafter register under the provisions of Chapter 6469 of the Laws of Florida, Acts 1913, in election precincts which are not located wholly or in part within a city of more than twenty thousand population, shall be deemed duly registered for all primary elections, and all general and special elections so long as they continue to reside in the election precinct in which they so registered and their names shall be carried upon the registration books as electors duly registered for such elections.

“Section 11 of the same Chapter as amended by Section 3 of Chapter 6874 provides in part as follows:

“That for the year 1915 and thereafter the Tax Collector shall issue and deliver to the Supervisor of Regis-

tration a duplicate copy of each poll tax receipt upon forms to be furnished him by the Comptroller and the Supervisor of Registration shall enter upon the general county register and also upon each precinct register the serial number of each poll tax receipt delivered to him.

"Inquiries from the Supervisors of Registration have given rise to a number of questions involving the construction of the above statute, in consequence of which I ask that you advise me your construction as to whether the legislature intended that the entry regarding the serial number of each poll tax receipt required under Section 11 should apply only to those who are not considered duly registered under Section 9. In other words does it apply only where a person is newly registered, beginning with 'the year 1915 and thereafter,' as where one resides wholly or in part in a City of more than twenty thousand population, or desires to register by reason of having attained the legal voting age or having completed the legal voting residence under Section 10 of the Act as amended.

"If you infer that the serial numbers of the poll tax receipts should be entered in the identical registration books of 1913 containing the registration of electors for that year, the Supervisors are confronted with the problem as to where such entry will be made, the columns of those books having already been used for entering the payment of poll taxes for the years 1912 and 1913."

In reply I beg to advise that I am of the opinion that the legislature intended that the entry of the serial number of each poll tax receipt, as provided in Section 3 of Chapter 6874, Acts of 1915, should apply to all electors who are now or may hereafter register and pay their poll taxes under the provisions of Chapter 6469, Acts of 1913, as amended by Chapter 6874, Acts of 1915.

Respectfully submitted,

T. F. WEST,

Attorney General.

REGISTRATION BOOKS—OPEN IN PRECINCT—
PROVISIONS REGULATING.

Tallahassee, Fla., Feb. 7, 1916.

*Honorable H. Clay Crawford,
Secretary of State,
Capitol.*

Dear Sir:—

Yours of the 4th inst. has been received. I note your inquiry as follows:

“Section 9 of Chapter 6469 as amended by Section 1 of Chapter 6874, Laws of Florida, reads in part as follows:

“That the County Registration Books for each election district shall be open on each week day from 9 a. m. to 12 m., and from 2 p. m. to 5 p. m. and one night each week until 9 p. m. at some convenient place in each election district in each county of this State, from the first Monday in March to and including the first Monday of April 1916, and biennially thereafter during such period for the registration of all persons who are legally qualified to register for the general primary election * * *

“Section 10 of Chapter 6469, as amended by Section 2 of Chapter 6874, Laws of Florida, reads in part as follows:

“It is hereby made the duty of the Supervisor of Registration of each County in this State, between March 1, 1914, and May 1, 1914, and biennially between corresponding dates thereafter, to keep the registration books of the county open at his office every day, Sundays excepted, from 9 o'clock a. m. to 12 o'clock m., and from 2 o'clock p. m. to 5 o'clock p. m., for the registration of electors for the general primary election.’

“Section 12 of Chapter 6469 as amended by Section 4 of Chapter 6874, Laws of Florida, reads in part as follows:

“There shall be one or more volumes well bound with

leather backs and corners, and cloth sides for each election district, large enough to contain the names of all the electors of the district for which provided, called the 'General County Register.' "

"Section 15 of Chapter 6469, Laws of Florida, provides in the last sentence thereof the following:

" 'The separate election precinct register shall contain all the information concerning the elector contained in the General County Register, including the actual signature of the elector, if able to sign, and signature of said Supervisor or his deputy attesting such registration.'

"You will observe from the above provisions of Sections 9 and 10 that the registration books are required to be open in each election precinct at the same time as in the office of Supervisor of Registration, with the exception that they are required in the latter place four days in advance of the former and up to May 1st.

"I respectfully request that you construe this law and furnish me with your opinion as to the intention of the Legislature in the passage of what appears to be a conflict as above quoted.

"If the language of Section 12, 'one or more volumes,' applies only to the General County Register, another conflict will arise with Section 15 in that the elector is required to sign both books."

Replying to this inquiry, I beg to say that it appears from the provisions of Sections 9 and 10 of the statute quoted by you, that the County registration books are required to be open during the month of March, in each year in which an election is held, in each election district of the County and at the office of the Supervisor of Registration.

In order that these provisions of this statute may be

complied with, it is necessary that the Supervisor of Registration of each County be supplied with registration books in sufficient number that electors desiring to register may be given an opportunity to do so, as provided by the Statute, during the month of March, either in his election precinct or at the office of the Supervisor of Registration of the County.

Respectfully submitted,

T. F. WEST,
Attorney General.

LAST DAY UPON WHICH FILING FEE CAN BE
FILED WITH SECRETARY OF STATE.

Tallahassee, Fla., April 12, 1916.

*Honorable H. Clay Crawford,
Secretary of State,
Tallahassee, Florida.*

Dear Sir:—

I have your communication of April 10th, submitting the following for my opinion:

“There is some conflict of opinion among officials and candidates as to the proper construction to be placed on certain provisions of Chapter 6469, Laws of Florida, regarding dates and number of days mentioned therein; the conflict arising from an uncertainty as to whether days should be calculated in point of time or with reference to a number of days, as per dates appearing on the calendar regardless of the number of hours constituting a day, and whether or not the day of the election is included or excluded in certain cases. I therefore submit

the following with the request that you advise me accordingly:

"Section 25 of Chapter 6469 reads as follows:

"Each candidate for nomination for an office to be voted for by the electors of more than one county shall file his sworn statement and receipt for committee assessment, if any has been levied, and pay his filing fee as herein required to the Secretary of State not less than thirty days previous to the day of the primary election."

"What day of the month is the last day on which a candidate may comply with this provision?"

"Section 29 of Chapter 6469 reads in part as follows:

"Any candidate may file with the Secretary of State for publication as herein provided, not later than the thirty-third day before the primary election with his portrait cut if he wishes, a printed or typewritten statement or statements, on the conditions hereinafter set forth, concerning his own candidacy, or in reply to any statements served upon him as provided in this section. Any such candidate may, not later than the thirty-ninth day before said primary election, file with the Secretary of State his printed or typewritten statement over his signature concerning any other candidate for the same office, but every such statement shall be accompanied by affidavit or sheriff's return that personal service has been made upon such candidate of a true copy of such statement."

"What is the thirty-third and the thirty-ninth day before the primary election within the meaning of section 29?"

"Section 19 of Chapter 6470 provides among other things, that certain candidates file with the Secretary of State detailed itemized statements of campaign expenses, not more than thirty days nor less than twenty-five prior to the primary, not more than twelve days not less than eight days prior to the primary and within ten days after

the primary. What are the periods of time, according to the calendar for the filing of said statements?"

In reply, I beg to advise that the matter of your inquiry appears to be fully covered in the decision of our Supreme Court in the case of State against Town of Winter Park, reported in 25 Fla. 371, 5 South. Rep. 818, wherein the court prescribed the following rule:

"The notice 'for a period of not less than thirty days' required by the general statute for the incorporation of cities and towns, is complied with if there be thirty days given by excluding the first and including the last day."

Applying this rule to your first question, it would seem that May 7th would be the latest date within which a candidate to be voted for in more than one county could pay his filing fee to the Secretary of State.

It will be observed, however, that May 7th, 1916, falls on Sunday. This being the case, I would say that such filing fees should be paid to the Secretary of State on or before May 6th.

Applying the same rule to all other questions submitted in your inquiry, they will be readily resolved in the same manner.

Respectfully submitted,

T. F. WEST,

Attorney General.

CERTIFICATES OF NOMINATION TO CANDIDATES
OF PARTY POLLING LESS THAN FIVE
PERCENTUM OF VOTES.

Tallahassee, Fla., May 30, 1916.

*Honorable H. Clay Crawford,
Secretary of State,
Tallahassee, Florida.*

Dear Sir:—

Yours of this date has been received.

I note your inquiry as follows:

"I am in receipt of two letters from Mr. W. L. Van Duzor of Clermont, Florida. I am submitting same herewith together with copies of replies thereto with the request that you advise me whether or not the Secretary of State would be acting within the scope of his authority to issue a certificate declaring the nomination of the candidates whose names are disclosed by copies of correspondence referred to."

The correspondence referred to and attached to your letter relates to a request of Mr. W. L. Van Duzor that the names of certain persons furnished by him be certified by you, as Secretary of State, as candidates of the Republican party for the positions named in the primary election to be held in this State on June 6 next; or that, inasmuch as said candidates have no opposition for the several positions enumerated, they be certified as nominated under the provisions of Section 27 of the Primary Election Law.

The statute regulating the subject is the first paragraph of Section 2 of the Primary Election Law, reading as follows:

"A political party which, at the general election for State and County officers then next preceding a primary, polled more than five per cent of the entire vote cast in the

State is hereby declared to be a political party within the meaning of this Act, within the State, and shall nominate all candidates provided for in this Act under the provisions hereof."

I understand that the Republican party did not cast a sufficient number of votes at the last general election to bring it within this definition of a political party, and that for this reason and for the *additional reason* that the persons named did not qualify as candidates as the law requires and file the statements required of candidates to be filed by the provisions of Chapter 6470, commonly called the Corrupt Practices Act, you declined to certify the persons named as candidates of the Republican party, or as nominees of this party under the provisions of Section 27 of the Primary Election Law.

In my opinion it is entirely clear that you would not be warranted, for the reason last assigned, to issue a certificate declaring the nomination of the candidates whose names are referred to in the correspondence, and this is the question submitted, as I understand your inquiry.

Yours very truly,

T. F. WEST,
Attorney General.

STATEMENT OF CAMPAIGN EXPENSES—FILED
WITH SECRETARY OF STATE—DEPOSITING
IN POSTOFFICE.

Tallahassee, Fla., June 1, 1916.

*Honorable H. Clay Crawford,
Secretary of State,
Capitol.*

Dear Sir:—

Yours of the 31st ultimo has been received. I note your inquiry as follows:

"Mr. A. J. Angle, candidate for State Comptroller, has failed to file his second statement of campaign expenses as required by Section 19 of Chapter 6470, Laws of Florida. The circumstances connected with his attempt to file said statement are disclosed by the attached affidavit of Mr. Angle.

"I proceeded yesterday to issue certificates to the Boards of County Commissioners of the various counties in the State as required of me by Section 20 of said Chapter 6470, Laws of Florida, a copy of which is hereto attached.

"I will be pleased for you to give me your opinion as to whether the Secretary of State should, under the law, recall the certificates issued and accept a copy of the statement Mr. Angle claims to have filed in the Postoffice at Milton under the circumstances disclosed in his affidavit.

"In the event you hold that said certificates should be voided, kindly direct me the proper procedure for the Secretary of State to follow in the premises.

"I beg to advise that a conclusion should be arrived at as early an hour as possible since the time of printing the ballot for the County Commissioners is extremely short."

From the affidavit of Mr. Angle attached to your letter it appears that he prepared and deposited in the postoffice at Milton on Friday afternoon last, addressed to you at Tallahassee, Florida, a statement of his campaign expenses which the law requires candidates to file not more than twelve nor less than eight days prior to the primary.

The question presented is whether or not the mailing of this statement in the postoffice at Milton, addressed to Honorable H. Clay Crawford, Secretary of State, at Tallahassee, Florida, is a compliance with the statute requiring *that it shall be filed in the office of the Secretary of State not less than eight days prior to the primary*, it being admitted that the time within which such statement may be filed has expired and that it has not yet, in fact, been received and filed in the office of the Secretary of State.

The statute governing the case is Sections 19 and 20 of Chapter 6470, Acts of 1913, commonly called the Corrupt Practices Act. By Section 19 of this statute it is provided, among other things, that each and every candidate for nomination for a National or State office or position in a primary election is required to file in the office of the Secretary of State detailed itemized statements of his campaign expenses, the last of such statements preceding the election to be filed not more than twelve nor *less than eight days prior to the primary*. And by Section 20 it is provided that any candidate who fails to make and file the statements required by Section 19 in the form and *at the time specified* shall not have the right to have his name placed upon the ballot to be used in the primary election. It is further provided that those intrusted with the preparation of the primary ballots shall, upon the certificate of the officer with whom said statements are required to be filed that a candidate has failed to file such statement or statements, omit his name therefrom.

In addition to this, it is further provided that the name of no candidate failing to file such statements shall be allowed or printed on the official ballot used in the general election and that no committee, officer or board authorized to issue commissions, certificates of election and certificates of nomination shall issue any such commission or certificate to any candidate who fails to comply with the provisions of this law. The statute also provides that any officer violating its provisions shall, upon conviction, be fined not exceeding five hundred dollars or be imprisoned not exceeding six months.

In clear unmistakable terms this statute requires candidates *to file in the office of the Secretary of State* an itemized statement of their campaign expenses *not less than eight days prior to the primary*.

The Supreme Court of this State, in the case of Commissioners of Franklin County v. State *ex rel.*, Patton, 24 Fla. 55, when a somewhat similar question was presented, said:

"A paper is *filed* when it is delivered to the proper officer and *by him received* to be kept on file."

In the recent case of United States v. Lombardo, 241 U. S. 73, the Supreme Court of the United States, in considering a question similar to that involved here, quoted with approval the following language used by the lower court in its opinion filed in the case:

"The word 'file' was not defined by Congress. No definition having been given, the etymology of the word must be considered and ordinary meaning applied. The word 'file' is derived from the Latin word 'filum,' and relates to the ancient practice of placing papers on a thread or wire for safe keeping and ready reference. Filing, it must be observed, is not complete until the document is delivered and received. '*Shall file*' means to deliver to the office and not send through the United States mail.

* * * A paper is filed when it is delivered to the proper official and by him received and filed. * * *

Anything short of delivery would leave the filing a disputable fact, and that would not be consistent with the spirit of the act."

The court was here considering an act of Congress, but the question decided was practically the same as the question presented by this case.

It may be that the language "to file in the office of the Secretary of State not less than eight days prior to the primary" should be construed as meaning "to deposit in a postoffice addressed to the Secretary of State in time for the postal authorities to deliver it in Tallahassee not less than eight days prior to the primary," and that when so deposited the responsibility for delivering such statement shifts from the candidate to the postal authorities, and that the candidate shall thereupon be held to have complied with the statute, although this statement never reaches the office of the Secretary of State and is never filed in his office. If his statute is to receive this construction it must be done at the hands of some one other than the Attorney General under the present administration. To so hold would, in my opinion, result in making every postoffice a filing office for these statements, make an affidavit that a statement had been mailed equivalent to the actual filing of the statement in the office of the Secretary of State, and thereby render the statute nugatory and ineffectual to accomplish the purpose for which it was designed. Construed in this way the statute would promote and not prohibit corrupt practices. The honest candidate would comply with its terms and file his statements in the office of the Secretary of State, but one who wished to evade the law could expend such sums of money as he desired and for any purpose that suggested itself for the promotion of his candidacy and then, instead of filing his statement as the law requires, he would make his affidavit, or secure some one else to make it, that his statement had been deposited in some postoffice, and, if the construction of the statute suggested were adopted,

he would be held to have complied with the law, notwithstanding the fact that his statement was never filed, with the result that no one could know what amount had been expended by him or in his behalf or for what purpose money had been used in the furtherance of his candidacy.

In this case I would be glad to be able to relieve the candidate of the penalties which the law visits upon him because of his failure to file his statement as the statute requires. I am convinced of his good faith and I have no doubt that he actually deposited his statement in a post-office as he avers, but it has not been received and filed in the office of the Secretary of State and nothing less than this meets the clear and unequivocal demands of the statute.

Valid statutes are binding upon officers and citizens alike. I assume that the statute involved here is valid. Your action, therefore, in certifying that Mr. Angle has failed to file his expenses statement as required by the statute was, in my opinion, proper.

Very respectfully,

T. F. WEST,
Attorney General.

PRIMARY ELECTIONS—REGISTRATION, SUFFICIENCY FOR GENERAL ELECTIONS.

Tallahassee, Fla., August 17, 1916.

*Honorable H. Clay Crawford,
Secretary of State,
Capitol.*

Dear Sir:—

I am in receipt of your communication containing the following inquiry:

"The question as to what the legislature intended

should be done by the Supervisors of Registration in making the registration for the primary election a substitute for registration for the general election has been repeatedly asked this department.

"The particular statute requiring a construction is the second and fourth paragraphs of Section 9 of Chapter 6469 Laws of Florida as amended by Section 1, Chapter 6874, which read as follows:

"That all persons who have heretofore registered or who may hereafter register under the provisions of Chapter 6469 of the Laws of Florida, Acts of 1913, in election precincts which are not located wholly or in part within a city of more than twenty thousand population shall be deemed duly registered for all general primary elections and all general and special elections so long as they continue to reside in the election precinct in which they so registered and their names shall be carried upon the registration books as electors duly registered for such elections."

"That in all election precincts located wholly or in part within a city of more than twenty thousand population biennial registration shall be required, as provided by the provisions of Chapter 6469, of the Laws of Florida, Acts of 1913, and all persons so registering shall be deemed duly registered electors for the general election next following the primary for which they registered, and for any special election held subsequent to the general primary for which they registered and prior to the next following general primary, and their names shall be carried on the registration books as duly registered electors for such elections."

"The problem confronting the Supervisors of Registration, as they seem to see it, is (1) whether they should substitute the primary registration books for the general election or transcribe the names from the primary books to the general election books, and (2) if the latter construction prevail, whether under such construction the

electors who have registered for the primary, but whose names are not registered in the general election books, should be required to make a separate and independent registration for the general election; in other words, would the transcription from the primary books to the general election books be a sufficient registration for the general election?

"I would be pleased for you to give me your opinion as to a proper construction of the statute above quoted."

Under existing statutes there are two systems of registration as a prerequisite to voting in this State, one for the registration of electors in primary elections, the other for the registration of electors in general elections, and two separate and independent sets of registration books are kept in each county for this purpose.

If the provisions of the Statute quoted in your letter are valid, I think the registration officer of the county would be warranted in transcribing the names of electors appearing upon the registration books for primary elections upon the registration books for general elections, having in mind always, of course, that each elector should be registered in the precinct of his residence.

There is, however, in my opinion, some doubt of the constitutional validity of that provision of the statute making the registration of an elector under this statute for primary elections sufficient registration of such elector for general elections.

This doubt arises because of this situation: by Section 16 of Article III of the Constitution it is provided that:

"Each law enacted in the legislature shall embrace but one subject and matter properly connected therewith which subject shall be briefly expressed in the title," etc.

The title to the primary election law as originally passed in 1913 is as follows:

"An Act to Provide for and Regulate Primary Elections."

And the title to the amendatory act of 1915 is:

"An Act to Amend Sections 9, 10, 11, 12, 40, 44, 52, 55 and 63, and to Repeal Sections 64 and 65 of Chapter 6469 of the Laws of Florida entitled 'An Act to Provide for and Regulate Primary Elections,' approved June 3, 1913."

The quoted section of the Constitution requires that the "subject" of the act shall be briefly expressed in the title. The subject of the statutes referred to is "primary elections." There is no reference in the title of either of the acts to "general elections." A "primary election" is a substitute for a convention and is simply a method of selecting party candidates. A "general election" is an election of officers. They are not synonymous terms, nor is one comprehended in the other. They are employed for distinct purposes and different results are accomplished by them.

By the title the legislature expressly limited the scope of this legislation to providing for and regulating "primary elections." There is no reference in the title of either of the acts to the "subject" of "general elections" and it is not clear that the qualification of electors for general elections can be regarded as "matter *property* connected" with the "subject" of this legislation and so related to such subject as to render unnecessary a reference to it in the title of the statute. In this situation there is, I think, sufficient doubt of the validity of that provision of these statutes making the registration for primary elections a registration also for general elections to have attention called to it and to suggest to the registration officers that all electors who have not heretofore registered in the registration books for general elections do so while the books are open, in order that no question may arise as to the regularity and validity of their registration.

Of course I do not say that this provision of the statute is invalid. I only undertake to demonstrate that it may be so held by the courts, and I do say that there is room

for doubt of its validity and that since this is true *the safe course for an elector is to see to it that he is duly registered upon the registration books for general elections* so that if it should be held that the registration for primary elections is not a sufficient registration for general elections, he would not be denied the right to vote in the general election.

This is advisable for another reason, namely; if, after the general election is held, the question of whether or not electors who had registered on the registration books for primary elections but had not registered on the registration books for general elections were qualified to vote in the general election, was raised and it should be held that such registration was not sufficient, great uncertainty and dissatisfaction would probably follow.

For this reason I am suggesting that all electors register just as if the registration books for primary elections were not in existence. Of course if an elector has heretofore registered in the registration books for general elections, it will not be necessary to do so again.

Respectfully,

T. F. WEST,
Attorney General.

Opinions to State Comptroller.

ONE LICENSE TAX REQUIRED OF LEASED TELEGRAPH LINES.

Tallahassee, Fla., March 2, 1915.

*Honorable W. V. Knott, Comptroller,
Capitol.*

Dear Sir:—

I am in receipt of your communication, as follows:

“Referring to our conversation in reference to the license taxes on telegraph systems, as provided for in section 54 of Chapter 6421 of the Laws of Florida, I submit the following information:

“The Atlantic Coast Line Railroad Company *owns* a telegraph line in this State upon which the license taxes have been paid under said section, which were due October 1st, 1914, and said telegraph line is leased to the Western Union Telegraph Company, and *operated* by said Company, in connection with the telegraph line owned by it.

“The section above referred to provides that the mileage of telegraph lines shall be based upon the actual distance from point to point, and not upon the number of miles of wire. On a part of the leased line, the Western Union Telegraph Company, has placed one or more additional wires.

“I desire your opinion as to whether or not the Western Union Telegraph Company is liable for a license tax for the distance from point to point of the lines leased from the Atlantic Coast Line Railroad Company, and upon which the latter Company has paid the license tax of 65c per mile, as provided by the section above referred to.”

It appears from your letter that the telegraph line re-

ferred to is owned by the Atlantic Coast Line Railroad Company, but is leased to and operated by the Western Union Telegraph Company.

In this state of the case, in my opinion, if the license tax imposed by the statute referred to upon telegraph systems is paid by one of such companies upon this line, the other company should not be required to pay a similar tax upon the line. In other words, if the lessee, who operates the line, pays the license tax mentioned, then the lessor is not required by the statute to pay a like tax on the same line.

Very respectfully,

T. F. WEST,

Attorney General.

AUTHORITY OF TAX COLLECTOR TO RECEIVE
COUNTY ROAD WARRANTS IN PAYMENT OF
ALL COUNTY TAXES.

Tallahassee, Fla., March 24, 1915.

*Honorable W. V. Knott, Comptroller,
Capitol.*

Dear Sir:—

I am in receipt of your inquiry, as follows:

"I enclose herewith a letter from Hon. F. M. Tyler, Tax Collector, St. Lucie County, Fort Pierce, Florida, in which he asked the following questions:

"Can I accept road warrants in payment of *all county taxes*, and would the Treasurer be obliged to receipt me same as *cash*, or have I the right to refuse to accept the warrants, or accept them as far as they pertain to the General Road Fund."

"I would be pleased to have your opinion in answer to

said inquiries, and covering generally the question as to whether or not the Tax Collector has a right to receive county warrants in payment of taxes."

The statutes necessary to be considered in determining this question are:

Section 38 of Chapter 5596, Acts of 1907, as follows:

"Comptroller's warrants shall be receivable for State general revenue; Provided, That warrants issued prior to July 1, 1871, must first be examined and approved by the Board constituted by Section 1, Chapter 2081, Laws of Florida. *Orders upon the County Treasurer of any county shall be receivable by such county for county revenue*, and orders issued by the County Board of Public Instruction shall be receivable in the counties where such orders are issued for county school purposes."

Section 810 of the General Statutes, as follows:

"It shall be the duty of every county treasurer to open an account with himself in a well bound book, to be furnished by his county, and he shall charge himself with all moneys which he may officially receive, giving therefor his receipt, in duplicate, specifying the source from whence received, the date of receiving and on what account, and the amount, in distinct and separate items, which shall show the *amount of currency and the amount of script and the respective kinds and amounts thereof*; and the officer, State or county, *paying money or script into the treasury* and receiving duplicate receipts as above provided shall forthwith file one of such duplicate receipts with the clerk of the circuit court, for the inspection of the board of county commissioners of his county at their first session thereafter. And in like manner he shall credit the said accounts with all payments, setting out the amount, date, and the name in whose favor the order for payment is drawn, and the date of payment. The account shall be properly balanced on the first day of January, April, July and October in each year."

Sections 782 and 783 of the General Statutes, as follows:

"The county commissioners shall, whenever they issue a warrant on the county treasurer, state specially in said warrant the fund upon which the same is drawn, and no warrant shall be drawn upon any fund except that for which said fund was raised, and no county treasurer shall pay any warrant that is not drawn in conformity with the terms of this section."

"The board of county commissioners of each county shall furnish the county treasurer with a receipt book, with forms of receipts and with spaces for the amounts to be filled therein, and with stubs to correspond, which receipts and stubs shall designate separately each fund for which county taxes are collected, and it shall be the duty of the collector on making any payment of moneys or funds collected for taxes to the county treasurer to inform him of the sum of each collected, for or on account of such county fund, and the treasurer shall fill out and deliver to the collector a proper receipt from said receipt book, designating what is received from the collector for each county fund separately, and the treasurer shall keep a copy of such receipt on the corresponding stub in such receipt book."

Section 964 of the General Statutes, as follows:

"It shall be the duty of the clerk of the circuit court to issue a certificate under the seal of the court, and keep a stub copy of the same, to each witness appearing on the part of the State, stating therein the name of the case and the amount of compensation to which he is entitled, where the same is a claim against the county treasurer out of the fine and forfeiture fund, *and shall be received in payment of all fines and forfeitures or any special tax levied for payment of criminal costs after being registered by the county treasurer.*"

A portion of Section 974 of the General Statutes, as follows:

"Such registered warrants shall also be receivable for

all fines and forfeitures, *but not for the special tax levied for the payment of criminal costs.*"

From these statutes it appears that orders upon the county treasurer of any county shall be receivable by such county for county revenue (Section 38, Chapter 5596, Laws of Florida); that each county treasurer shall open an account with himself, in a book to be furnished by his county, in which he shall charge himself with all money received, *and the account shall show the amount of currency and the amount of scrip, and the respective kinds and amounts thereof*; and the officer of the State or county paying money or scrip into the treasury, etc. (Section 810 of the General Statutes); that it shall be the duty of the collector on making any payment of *money or funds collected for taxes* to the County Treasurer, to inform him of the sum of each collected for or on account of such county fund, and the Treasurer shall give to the collector a receipt showing what is received for each fund separately (Section 783, General Statutes); that each warrant drawn by the Board of County Commissioners on the County Treasurer shall state the fund upon which it is drawn (Section 782, General Statutes); that witness' certificates issued on the fine and forfeiture fund are receivable, after being registered by the County Treasurer, for the taxes levied and collected for the payment of criminal costs (Section 964, General Statutes), and that warrants issued on the fine and forfeiture fund are not receivable for taxes levied for the payment of costs in criminal cases (Section 974, General Statutes).

The conclusion is that a taxpayer may use county warrants, orders, or scrip, except such as may be drawn on the fine and forfeiture fund, in payment of his taxes; but since the statutes quoted require that each county fund shall be kept separate, the proportion of the amount payable by each taxpayer that must be paid into each fund must be paid by warrants drawn on that fund.

For example, suppose the amount of taxes due was

\$20.00, and that one-fifth of this amount is the proportion that would be credited to the "General Fund." In this case the Tax Collector would be authorized by the statutes quoted and referred to, to accept in payment one-fifth of the amount, or \$4.00, in warrants, orders or scrip drawn on the general fund; and the same would be true as to each of the other separate funds as kept by the Collector and Treasurer; the exception, as we have seen, being that warrants drawn on the fine and forfeiture fund are not received in payment of taxes.

It may be suggested that the statutes requiring the payment of county warrants or orders, in certain cases, in the order of presentation (General Statutes, Sections 789 and 973), are opposed to this conclusion. But to hold that these statutes are in conflict with the other statutes referred to, and forbid the payment of taxes with county warrants or orders, in the manner above indicated, is not necessary and would be contrary to the established rule of statutory construction in such cases. It will be noted that all the statutes referred to are in the General Statutes of 1906.

The Supreme Court, in the case of *Curry vs. Lehman*, 55 Fla. 847, where a similar question was involved, said:

"As we have seen, Sections 1600 and 1601 were enacted originally in 1834 and Section 1603 in 1901, and the three sections were brought forward at the same time into the General Statutes of 1906. In the comparison of different statutes passed at the same session this circumstance has weight, as indicating the prevalence of the same legislative purpose, as rendering it unlikely that any marked contrariety was intended. It is to be presumed that different acts on the same subject passed at the same session of the legislature are imbued by the same spirit and actuated by the same policy and they should be construed each in the light of the other. The legal presumption is that the legislature did not intend to keep alive really contradictory enactments in the statute books, or

to effect so important a measure as the repeal of a law without expressing an intention to do so. An interpretation leading to such a result should not be adopted unless it be inevitable. The rule of construction in such cases is that if courts can by any fair, strict or liberal construction find for the two provisions a reasonable field of operation, without destroying their evident intent and meaning, preserving the force of both, and construing them together in harmony with the whole course of legislation upon the subject, it is their duty to do so."

It is clear, I think, that the legislature did not intend that one class of these statutes should be inconsistent with and neutralize the other class, but that each of them should have force and effect, and should operate in the field for which it was intended.

To present a county warrant or order to a County Treasurer for payment by him to the holder in cash seems to be regarded as a different matter from using such warrant or order in the payment of taxes to the county. One transaction is the payment of an obligation, the other an off-setting of mutual obligations, one with the other. With this distinction in mind, the apparent conflict disappears.

Respectfully submitted,

T. F. WEST,

Attorney General.

EXPENSE OF CONVEYANCE INCURRED BY A
GRAND JURY WHILE INSPECTING COUNTY
ROADS UNAUTHORIZED CHARGE AGAINST
COUNTY.

Tallahassee, Fla., July 8, 1915.

*Hon. W. V. Knott, Comptroller,
Capitol.*

Dear Sir:—

Yours of the 6th inst., has been received.

I note your inquiry as follows:

"I enclose herewith a letter from Mr. C. C. Witaker, of Tampa, Florida, in reference to the payment by the Board of County Commissioners of the bill for hire of an automobile employed by the Grand Jury at its recent session, and used in inspecting the roads of the county. Said bill having been approved by the Judge of the Circuit Court.

"I would respectfully request that you advise me as to whether or not this bill is payable by the county."

Replying to same, I will say that there is no statute that I know of authorizing the expenditure of any county fund for the hire of automobiles used by the grand jury in inspecting county roads.

Respectfully submitted,

T. F. WEST.

Attorney General.

DEFAULTER IN PAYMENT OF OCCUPATIONAL
LICENSE MAY BE IMPRISONED.

Tallahassee, Fla., July 8, 1915.

*Hon. W. V. Knott, State Comptroller,
Capitol.*

Dear Sir:—

Yours of the 6 inst., has been received.

I note your inquiry as follows:

"I enclosed herewith a letter from Hon. J. L. Collier, Prosecuting Attorney of Manatee County, in reference to the enforcement of the penalties provided for in Section 59 of Chapter 6421 of the Laws of Florida, in which he desires to be informed as to whether or not a person convicted of a misdemeanor under said section or any other section of the license laws of this State, doing business without a license, can be punished by imprisonment.

"I will be pleased to have your opinion on this subject."

Replying to same, will say that, in my opinion, any person or persons convicted upon a charge of carrying on or conducting any business or profession for which a license is required under the laws of this State may, in default of the payment of the fine imposed under the provisions of section 59 of Chapter 6421, Acts of 1913, Laws of Florida, be imprisoned by confinement in the county jail.

Respectfully submitted,

T. F. WEST,
Attorney General.

AUTHORITY OF COUNTY COMMISSIONERS TO
CHANGE ESTIMATES OF COUNTY FUNDS BE-
FORE FINAL ADOPTION.

Tallahassee, Fla., July 24, 1915.

*Hon. W. V. Knott, State Comptroller,
Capitol.*

Dear Sir:—

Yours of the 23rd instant has been received.

I note your inquiry, as follows:

"I enclose herewith a letter from Mr. S. D. Clarke, County Attorney of Jefferson County, in which he states that:

"On the 14th inst. the Board of County Commissioners of Jefferson County at special meeting made up budget of expenses for fiscal year 1915-1916 in accordance with the provisions of Chapter 6814, recently adopted by the Legislature. The budget of these estimates have been recorded in the minutes of the Board and advertised as required by said Act, and the Board will make the levy accordingly at its next regular meeting in August. Since these estimates have been made up there has been a general clamor that the Board should increase the estimates for road purposes. The Board desires to know if they can now change such estimates inasmuch as the budget has been made up, recorded and published as required by the law.

"In view of the importance of the question presented by Mr. Clarke on behalf of the Board of County Commissioners of Jefferson County, I would respectfully ask your opinion as to whether or not the proposed action could be legally taken by the Board of County Commissioners of Jefferson County."

In reply to the same will state that, in my opinion, the Board of County Commissioners of Jefferson County have full authority under Chapter 6814, Acts of 1915, to rescind

the action taken on the 14th instant, and proceed in the manner provided to make up a new budget and estimate, and advertise again as required.

It will be noted that these estimates do not have the force and effect of appropriations until after advertisement and final adoption by the Board, which final adoption is not intended to be made until the August meeting.

Respectfully submitted,

T. F. WEST,
Attorney General.

COUNTY COMMISSIONERS NOT AUTHORIZED TO
OFFER REWARD FOR CONVICTION OF VIOLATORS OF LOCAL OPTION LAW.

Tallahassee, Fla., July 28, 1915.

*Hon. W. V. Knott, State Comptroller,
Tallahassee, Florida.*

Dear Sir:—

Yours of this date has been received.

I note your inquiry, as follows:

“I enclose herewith copy of a resolution adopted by the Board of County Commissioners of Baker County, and presented to this office by Hon. T. M. Dorman, Chairman of the Board of County Commissioners of said County, with the request that he be advised as to whether or not the Board of County Commissioners could issue warrants on the County Treasurer in payment of the rewards referred to in said resolution.”

The resolution referred to is in the following language:

“Resolved, That the Board of County Commissioners do hereby offer a reward in the sum of Forty Dollars to any person furnishing evidence sufficient to convict for

the offense of selling whiskey, wines or beer in this, Baker County, contrary to the laws governing same."

Confirming what I have just stated to you verbally, I beg to say that there is, in my opinion, no authority for appropriating any county funds for the purpose of paying rewards in such cases.

In 1907, by Chapter 5689, provision was made for the payment of a reward of \$50.00 in each case to the person furnishing evidence sufficient to convict those charged with selling or causing to be sold any spirituous, vinous or malt liquors in any county or precinct which has voted against such sale, but in 1911, by Chapter 6179, the statute was amended so as to eliminate from it that feature authorizing and permitting the payment of such rewards.

Inasmuch as the legislature, after a test of the statute authorizing the payment of rewards in this class of cases for four years, has deliberately repealed the statute, the conclusion is, I think, inescapable that the legislature intended that the Boards of County Commissioners should have no such power and should not appropriate county funds for this purpose.

As a matter of history, I might add that at a conference of Circuit Judges held at Tallahassee prior to the convening of the regular session of the legislature of 1911, a recommendation was made that the feature of the statute authorizing the payment of such rewards be repealed; the reason given for the recommendation being that the offer and payment of such reward tended to encourage perjury.

Be that as it may, it is shown that the power once given has been taken away, and does not now exist.

Respectfully submitted,

T. F. WEST,

Attorney General.

PAYMENT OF OUTSTANDING REGISTERED
SCHOOL WARRANTS AS AFFECTED BY CHAP-
TERS 6814 AND 6828, LAWS 1915.

Tallahassee, Fla., August 18, 1915.

*Hon. W. V. Knott, Comptroller,
Cautol.*

Dear Sir:—

I have yours of the 9th inst. enclosing communication from Hon. T. R. Bennett, Treasurer of Sumter County, which reads as follows:

"This County has several thousand dollars outstanding registered school warrants drawing interest. Please advise me, if under the new law, I shall pay them off or the new ones that are issued monthly. We have some funds on hand and I wish to do what the law requires."

In reply I would say that ordinarily the warrants referred to should be paid in the order of their registration as required by Section 812 of the General Statutes.

It is, however, provided by Chapter 6828 of the Acts of 1915 that the Boards of Public Instruction of the various Counties may issue warrants for the purpose of funding outstanding indebtedness; and the Boards are also authorized by this statute to borrow any sum of money in any one year not exceeding 80 per cent of the amount estimated by them to be required for the maintenance of the necessary common schools of the County for the next ensuing scholastic year, but the amount so borrowed shall be paid in full before the Board shall be authorized to borrow on the estimate for any succeeding year.

It will be noted that the amount which the Board is authorized to borrow for any year is an amount not exceeding 80 per cent of its estimate for the next ensuing scholastic year, and, in proceeding under this Statute, the Board should not lose sight of any outstanding warrants heretofore issued or issued for the purpose of refunding

outstanding indebtedness which are payable during the current year and put itself in position to be unable to meet such warrants when due.

The design and purpose of this Statute, as I understand it, is to provide for the gradual liquidation and reduction of outstanding indebtedness, to forbid any increase of such indebtedness, and to put the school funds of the various counties upon a sound financial basis.

Without knowing what the condition of the school fund is in the county from which your inquiry comes or how the Board of Public Instruction of the County intends to proceed in its application of this Statute, I cannot be more specific in this reply, but this letter will indicate in a general way what may be done, and if Mr. Bennett will take up the matter with the Board of Public Instruction of his County, it can no doubt be adjusted in a way satisfactory to all parties concerned.

I might add, that until the Board of Public Instruction of the County settles upon the policy to be pursued under this Statute, outstanding warrants should, in my judgment, be paid in the order of their registration as required by the Statute first above referred to herein.

Respectfully submitted,

T. F. WEST,

Attorney General.

AMOUNT OF BOND REQUIRED OF TAX COL-
LECTORS OF COUNTIES HAVING DRAINAGE
DISTRICTS.

Tallahassee, Fla., September 9, 1915.

*Hon. W. V. Knott, Comptroller,
Capitol.*

Dear Sir:—

Yours of the 7th inst. has been received.

I note your inquiry as follows:

"I enclose herewith a letter from Hon. P. H. Wright, Tax Collector of Brevard County, in which he calls attention to certain provisions of Chapter 6458 of the Laws of Florida, and particularly that part requiring Tax Collectors to give a bond for an amount equal to double the amount of the taxes expected to be collected under said act.

"I would be pleased to have your opinion as to whether or not the Tax Collectors are required to give this additional bond."

The statute on the subject is the concluding paragraphs of Section 19 of Chapter 6458, Acts of 1913, Laws of Florida, reading as follows:

"Before receiving the aforesaid 'Drainage Tax Book' the collector of each county in which lands of the drainage district are located, shall execute to the Board of Supervisors of the district a bond, with at least two good and sufficient sureties, or some surety or bonding company approved by said board, in a sum that is double the probable amount of any annual installment of said tax to be collected by him during any one year, conditioned that said collector shall pay over and account for all taxes so collected by him according to law. Said bond after approval by said board of supervisors shall be deposited with the secretary of the Board of Supervisors, who shall be

custodian thereof and who shall produce same for inspection and use as evidence whenever lawfully requested so to do."

The Tax Collectors of Counties in which drainage districts are created under this statute are, in my opinion, required to give the additional bond provided for by this statute.

Respectfully submitted,

T. F. WEST,

Attorney General.

CLERK OF THE CIRCUIT COURT—HIS DUTIES AS
COUNTY AUDITOR.

Tallahassee, Fla., October 8, 1915.

*Hon. W. V. Knott, Comptroller,
Capitol.*

Dear Sir:—

Yours of the 5th inst., has been received. I note your inquiry as follows:

"I am handing you herewith a communication from Hon. J. L. Markham, Clerk of the Circuit Court of Columbia County, with a resolution by the Board of County Commissioners of that County, wherein they ask that your opinion be obtained, and 'to advise the Board as to the duties of the Clerk of the Circuit Court with regard to auditing the accounts against the County.' Will you kindly give me your views on the subject?"

The resolution referred to is in the following language:

"Resolved by the Board of County Commissioners: That the Comptroller of the State of Florida be and he is hereby requested:

1st. To advise this Board as to the duties of the Clerk of the Circuit Court with regards to the auditing of accounts against the County.

2d. That the Comptroller is hereby further requested to obtain the opinion of the Attorney General as to such duties of the Clerk, if necessary."

By Section 15 of Article 5 of the Constitution of this State, the Clerk of the Circuit Court of each county is made Clerk of the Board of County Commissioners, recorder and ex-officio auditor of the county; and it is provided by Section 767 of the General Statutes, that the Clerk of the Circuit Court for the county shall be clerk and accountant of the Board of County Commissioners. The duties of the Clerk as auditor or accountant are not prescribed in the Constitution or in the Statutes of this State.

In the case of *Machias River Co. v. Pope*, 35 Me., 19, the court said:

"To audit is to examine an account, compare it with the vouchers, adjust the same, and to state the balance, by persons legally authorized for the purpose."

In the case of *In re Heath's Estate*, 33 Atl., 46, the court said:

"To audit an account is to examine and digest it, or examine and verify it, or examine and adjust it. In actual practice to audit an account is to see that the accountant is charged with everything with which he is justly chargeable, and that nothing is placed on the credit side of the account for which he is not justly entitled to credit; and then, after the debit and credit are thus made up, to ascertain the balance remaining in his hands."

Inasmuch as the duties of the Clerk of the Circuit Court as auditor or accountant of the Board of County Commissioners are not defined either in the Constitution or Statutes of this State, I would say that his duties as such are those usually incident to this position.

Respectfully submitted,

T. F. WEST,

Attorney General.

REGISTRATION OF ELECTORS BY MEANS OF
AFFIDAVIT BEFORE TAX COLLECTOR AFTER
BOOK CLOSED.

Tallahassee, Fla., November 6, 1915.

*Hon. W. V. Knott, Comptroller,
Tallahassee, Florida.*

Dear Sir:—

I have yours of October 14 submitting the following, with communication from Hon. R. B. McLendon, Tax Collector of Dade County, Florida, for my opinion:

"I enclose herewith a letter from Hon. R. B. McLendon, Tax Collector of Dade County requesting advice as to his duties in the matter of administering oaths to persons other than those paying poll taxes to him, and whether or not the Supervisor of Registration should enter the names of those on the registration books that have taken such affidavit at any time the Tax Collector may turn over the affidavit to him, or should they be entered only during the time the registration books are required to be kept open."

In reply I beg to advise that I do not think the legislature intended to embrace anything in Chapter 6874, Acts of 1915, that would require the registration books in the various counties of this State to be kept open at any time or be opened at any time except from March 1 to May 1, 1914, and biennially thereafter. It would, therefore, be immaterial when the Tax Collector transmitted the affidavits of such persons as registered with him to the Supervisor of Registration, provided, of course, such names were transmitted on or before the date required for the registration books to be kept open, at which time only the Supervisor of Registration would be required to enter these names on the registration books.

All this provision seems to amount to is to afford electors in this State the convenience of registering at the

time they pay their poll tax. The act does not seem to contemplate that persons not paying a poll tax would be entitled to take the oath and register as provided.

I might say that this view is concurred in by Hon. J. G. Sharon of Gadsen County, who was the author of this amendment.

Respectfully submitted,

T. F. WEST,

Attorney General.

LICENSE TAX ON BANKS—AUTHORITY OF
COMPTROLLER TO ENFORCE COLLECTION OF

Tallahassee, Fla., November 20, 1915.

*Hon. W. V. Knott, Comptroller,
Tallahassee, Florida.*

Dear Sir:—

Yours of the 17th instant has been received.

I note your inquiry, as follows:

“A question having arisen in the minds of some people as to the duties of the Comptroller in the matter of the enforcement of the collection of license taxes on banks which are payable to the County Tax Collectors, and while I am sure of my position, I deem it advisable to obtain an authoritative opinion.

“Will you kindly advise me whether or not the Comptroller has authority to enforce the collection of license taxes on banks by issuing a warrant to the sheriff under Chapter 6421, of the Laws of Florida, or under any other law.”

Replying to the same, I beg to say that, in my opinion,

the Comptroller has no authority to enforce the collection of license taxes on banks by issuing a warrant to the sheriff under Chapter 6421, Laws of Florida, or under any other law.

Respectfully submitted,

T. F. WEST,

Attorney General.

COMPENSATION OF TRUSTEES OF COUNTY
BONDS—EFFECT OF CONTRACT FOR LESS
FEE.

Tallahassee, Fla., February 19, 1916.

*Hon. W. V. Knott, Comptroller,
Tallahassee, Florida.*

Dear Sir:—

I have your communication of February 2 transmitting letter of Honorable F. E. Encell, Chairman of the Board of County Commissioners of Palm Beach County, addressed to your office and in which Mr. Encell makes inquiry affecting the compensation of trustees of county bonds.

In reply I beg to advise that the compensation of trustees of county bonds is provided for in section 804 of the General Statutes, which reads as follows:

“Compensation of trustees.—The said trustees shall have such compensation for their services as may be allowed by law to the county treasurer, for the safe keeping and disbursement of the moneys which may come into their hands as said trustees, to be paid out of the county treasury.”

The compensation of county treasurers is provided for by Chapter 6929, Acts of 1915, and reads as follows:

"The fees of the County Treasurers in this State shall be as follows:

"For receiving the first Ten Thousand Dollars, one and one-half per cent. For all over Ten Thousand Dollars, one-half of one per cent. For paying warrants or other evidence of county indebtedness, the same as allowed for receiving.

"Provided, however, that no fees shall be allowed or paid to County Treasurers for receiving or disbursing moneys borrowed for school purposes, including all such moneys as may be received and held for bonds sold under the provisions of Chapter 6542, Acts of 1913, Laws of Florida, or any amendments thereto."

These statutes fully answer your inquiry.

It appears from the communication of the chairman of the board of county commissioners that a contract was made between the board of county commissioners and the bond trustees by which the trustees agreed to accept as compensation for their services a less amount than that provided for by law; that they now refuse to be bound by this contract and claim the full amount of compensation allowed by the statute. This is a matter of contract between the parties and this office has no authority to officially pass upon it in such a way as to be binding upon them. The board of county commissioners can have the question settled by the courts by offering to pay the bond trustees the amount called for by the contract and declining to pay them any more than this amount. If the bond trustees are unwilling to accept settlement on this basis, it will be necessary for them to bring appropriate proceedings in the courts to test the question and in that way the matter may be definitely settled in such

a manner as to be binding upon all parties interested, whereas the views of this office would not be binding upon the parties to the contract and would probably have no influence upon the situation.

Respectfully submitted,

T. F. WEST,
Attorney General.

LICENSE TAX ON FISHING—WHO TO COLLECT—
FRESH WATERS—SALT WATERS.

Tallahassee, Fla., February 26, 1916.

*Hon. W. V. Knott, Comptroller,
Capitol.*

Dear Sir:—

Yours of the 28 ultimo has been received. I note your inquiry as follows:

"I would be pleased to have your opinion as to whether or not Chapter 6877 of the Laws of Florida, entitled: 'An Act to Protect and Regulate the alt Water Fishing Industry of the State of Florida, and to Provide Penalties for the Violation of This Act,' repeals all of the provisions of the License Law, Chapter 6421 of the Laws of Florida imposing License taxes for fishing or selling fish and also the provisions of Chapter 5668 of the Laws of Florida providing for a Iicense tax to be paid by persons catching fish in the waters of this State who bring the same for shipment to some point within the State. I am making this request in order that I may instruct the Tax Collectors."

The reason for the delay in this reply is due to the fact that the Supreme Court was considering a case in which I thought it possible that the questions involved would be decided.

In reply to your inquiry I would say that Chapter 6877, as appears from the title, is an act to protect and regulate the *salt water* fishing industry and, since it is expressly limited in its application to the *salt water* fishing industry, it would not, in my opinion, repeal the other statutes referred to, but leaves them in full force, the effect of Chapter 6877 being to segregate the *salt water* fishing industry, withdraw it from the class affected by the other statutes, and place the enforcement of the regulations prescribed by this statute for this branch of the industry upon the Commissioner of Agriculture and the Shell Fish Commissioner, the result of which is that one engaged in the *salt water* fishing industry will pay the license tax imposed by Chapter 6877 to the Shell Fish Commissioner and one engaged in this occupation generally and not taking or handling *salt water* fish will pay the license tax imposed by the other statutes mentioned to the tax collector of the county in which he is engaged in such occupation.

Respectfully submitted,

T. F. WEST,

Attorney General.

LICENSES — WHEN LICENSE YEAR BEGINS UNDER CHAPTER 6881 LAWS 1915.

Tallahassee, Fla., September 20, 1916.

Hon. W. V. Knott, Comptroller,
Capitol.

Dear Sir:—

I am in receipt of your communication containing the following request:

"I will be pleased to have your official opinion as to

the construction to be placed upon that part of the Act of 1915 Chapter 6881 of the Laws of Florida which relates to the year for which the license tax is to be paid in order that I may answer the question presented by Messrs. Lunsford & DeVane."

Replying I will say that in my opinion the *license year* for the license tax imposed by Chapter 6881, Acts of 1915, Laws of Florida, is the same as the license year as defined in the act imposing a license tax on occupations generally in this State, that is to say, from October first of each calendar year to October first of the following calendar year.

Respectfully submitted,

T. F. WEST,

Attorney General.

Opinions to State Treasurer.

DISPOSITION OF SECURITIES PLACED WITH STATE TREASURER WHERE FIRE INSUR- ANCE COMPANY BUSINESS IS ASSUMED BY ANOTHER AUTHORIZED ASSOCIATION.

Tallahassee, Fla., August 6, 1915.

*Hon. J. C. Luning, State Treasurer,
Tallahassee, Florida.*

Dear Sir:—

Yours of the 2nd instant has been received.

I note your inquiry as follows:

"I transmit herewith a letter from Mr. Thos. B. Adams, Attorney, representing the Florida Fire and Casualty

Company. You will notice that Mr. Adams states in his letter that his construction of Chapter 5889, Laws of Florida, 1909, is that the Insurance Department of this State can only hold bonds deposited under the provisions of said Chapter above referred to, to secure policy holders of the Company representing Fire Insurance, and that the provisions of this Chapter do not apply to casualty claims whatever.

"This Department holds \$6,000.00 of bonds deposited by the Florida Fire and Casualty Insurance Company, and being receipted for by this Department to said Company as deposited under provisions of Chapter 5889, Laws of Florida, reciting that said bonds were deposited with the State Treasurer of Florida for the protection of the policy holders of 'the said Insurance Company in the State of Florida.'"

"The Florida Fire and Casualty Insurance Company has made a statement to this Department showing that all of their existing fire insurance business has been taken over by a company authorized to do business in this State, thereby protecting the policy holders and that the said Florida Fire and Casualty Insurance Company has paid all outstanding losses under the fire policies of said Company. They have made a demand upon this Department that the \$6,000.00 of bonds deposited by them with the Department to secure the policy holders be now returned to them asserting that under the provisions of Chapter 5889 Laws of Florida 1909, that these bonds cannot be held by this Department to secure the casualty business of this Company, but is only to secure the Fire Insurance of this Company.

"Kindly inform me at your earliest convenience the construction you place upon this law, as to whether or not I would be justified under the law in surrendering the \$6,000.00 of bonds of said Company, which I now hold before this Company shall have fully satisfied any

casualty claims which now may be outstanding against said Company, returning the letter of Mr. Adams, Attorney, and the receipt given by this Department to the Florida Fire and Casualty Company, herewith transmitted, with your reply."

The title to the act referred to is An Act to require *fire insurance companies* to deposit a certain amount in cash or securities with the Treasurer of the State of Florida, and it will be noted, upon reference to the body of the statute, that it is limited in its application to fire insurance companies.

If the company referred to has furnished you with satisfactory evidence that it is not now engaged in the fire insurance business in this State, that its liabilities, whether fixed or contingent, upon its policies issued to persons residing in this State, have been satisfied or terminated, or assumed by another company doing business in this State which has qualified as required by law, and your office has been furnished with a duly attested copy of the contract between the two companies by which the risks of the retiring company are assumed by the other company, you will, in my opinion, be warranted in delivering to the company the securities belonging to it which were deposited with you as State Treasurer under the provisions of the act referred to.

Respectfully submitted,

T. F. WEST,
Attorney General.

SICK AND FUNERAL BENEFIT INSURANCE—AS
APPLIED TO THE CENTRO ESPANOL OF YBOR
CITY.

Tallahassee, Fla., October 8, 1915.

*Hon. J. C. Luning, State Treasurer,
Capitol.*

Dear Sir:—

Yours of the 4th inst. has been received. I note your inquiry as follows:

"I transmit herewith letters of September 28th and October 2nd, 1915, from Mr. James F. Glenn, attorney of Tampa, Fla., with reference to the character of business of the Centro Espanol of Ybor City and West Tampa, and my reply to same.

"You will observe from my reply that I wrote Mr. Glenn that I was of the opinion, from the statements contained in his letter as to the manner in which the Centro Espanol was conducted, that its operations placed it under the provisions of Chapter 5459, Laws of Florida, and that Mr. Glenn, in his letter of the 2nd inst., disagrees with this view. Will you, therefore, kindly render me your opinion as to whether or not, from the statements of the operations of this society, as given in the letter of Mr. Glenn of September 28th, ult., hereto attached, this society comes under the provisions of Chapter 5459, Laws of Florida, and should be required to obtain a license and Certificate of Authority from the State Treasurer to operate said society?"

From what appears in the letters accompanying your inquiry outlining the operations and character of busi-

ness as conducted by the organization referred to, I would say that you would be warranted in adhering to your opinion as expressed in your letter to Mr. Glenn regarding the matter.

Yours very truly,

T. F. WEST,

Attorney General.

MUTUAL FIRE INSURANCE ASSOCIATIONS—
WHAT CONDITIONS TO COMPLY WITH TO DO
BUSINESS.

Tallahassee, Fla., January 27, 1916.

Hon. J. C. Luning, State Treasurer,
Tallahassee, Florida.

Dear Sir:—

Your verbal request for an expression from this office relative to the application of the provisions of Chapter 6850 of the Laws of Florida has been received.

I understand your inquiry to be substantially as follows:

“Is Chapter 6850, Acts of 1915, Laws of Florida, complete in itself, or, are the associations to be organized under this Statute required, in addition to complying with this law, to comply also with the Statutes providing for the organizations of corporations generally in this State.”

Replying to this inquiry, I beg to say that in my opinion, when the requisite number of persons, as prescribed in Section 1 of this Statute, associate themselves together in the manner provided by the Statute, comply with the provisions of the Statute generally regarding the organization, submit their Articles of Association to the State

Treasurer and secure his approval of the same, as required by Section 3 of the Statute, and procure for said Association from the State Treasurer the formal license required by Section 7 of the Statute authorizing it to issue policies and transact business, it is not necessary nor essential for said Association to do anything further before it is permitted to transact as a corporation the business of a Mutual Fire Association, the Statute being, in my judgment, complete in itself on the subject of the organization and management of Mutual Fire Associations in this State.

Respectfully submitted,

T. F. WEST,
Attorney General.

FIRE INSURANCE COMMISSIONS DIVIDED BETWEEN LOCAL AND FOREIGN AGENTS.

Tallahassee, Fla., January 29, 1916.

*Hon. J. C. Luning, State Treasurer,
Tallahassee, Fla.*

Dear Sir:—

Your verbal request of the 25th instant is as follows:

Would Sections 2767 and 2768 of the General Statutes permit fire insurance companies, who are authorized to do business in this State, to pay resident and non-resident agents a commission on the same premium, or, in other words, divide commissions between such agents on the same business?

In reply, I beg to advise that the sections of the General Statutes referred to are more properly embraced in Chapter 5166, Acts of 1913, being Sections 2 and 3 of said Chapter. An examination of Sections 2769 and 2770 of

the General Statutes, which are more properly embraced in Sections 4 and 5 of Chapter 5166, as above referred to, will aid materially in construing Sections 2767 and 2768, which construction answers your question.

In the title to Chapter 5166, Acts of 1903, and the sections as above referred to, it appears that the Legislature intended that the entire premium paid by fire insurance companies authorized to do business in this State, on business in this State, should be paid to their local agents, and that no foreign or other agent would be allowed to participate in such commissions on premiums.

Respectfully submitted,

T. F. WEST,
Attorney General.

EXTENT OF CONTINGENT LIABILITY OF POLICY
HOLDERS IN MUTUAL FIRE INSURANCE COM-
PANIES.

Tallahassee, Fla., Feb. 18, 1916.

Hon. J. C. Luning, State Treasurer,
Tallahassee, Fla.

Dear Sir:—

Your verbal request for my opinion affecting the extent of the contingent liability of policy holders in Mutual Fire Insurance Companies is stated as follows:

To what extent does the contingent liability of policy holders in Mutual Fire Insurance Companies organized under the provisions of Chapter 6850, Acts of 1915, apply in the event of loss by fire or other agency as stated in such chapter?

In reply, I beg to advise that the extent of such contingent liability would be fully covered in the by-laws and the policy of the company writing the insurance.

Such by-laws and policy must be in line with the provisions of Section 12 of Chapter 6850, as above referred to, which reads as follows:

"The by-laws shall provide for a cash premium and may limit the contingent liability of the members to an amount not less than one nor more than ten times the cash premium expressed in the policy. The maximum contingent liability of the holder of each policy shall be plainly stated as a part of each policy. The by-laws may also provide for policies to be issued for cash premiums without contingent liability of policy-holders as provided in Section 13."

Respectfully submitted,

T. F. WEST,
Attorney General.

INSURANCE AGENTS—DIVISION OF
COMMISSIONS.

Tallahassee, Fla., Feb. 26, 1916.

*Honorable J. C. Luning, State Treasurer,
Capitol.*

Dear Sir:—

Replying to your verbal request for an opinion from this office relative to the proposed division of commissions to be made by fire insurance companies to their agents in certain cases, I beg to say that I understand your inquiry to be substantially as follows:

May a fire insurance company authorized to do business in Florida, contract with a non-resident agent or broker to procure for it certain business in Florida, for which service such non-resident agent is paid an agreed commission, the policies covering the risks secured to be written

by the company at its home office, or outside of the State, and sent to its agent in the State to be countersigned as required by law, for which service such local agent is paid an agreed commission, the agreement between the company and the non-resident agent being independent of and separate from the agreement between the company and the local agent, the effect of the whole arrangement being that the non-resident agent is paid a commission to secure the business and the resident agent is paid a commission to countersign the policies covering the business so secured?

The statute on the subject is Section 2767 of the General Statutes of the State of Florida, reading as follows:

"All policies or contracts of indemnity against loss by fire to property located in this State issued or entered into by any fire insurance company or association authorized to transact business in this State shall be issued and countersigned by a local agent who is a resident of this State, regularly commissioned and licensed to transact a fire insurance business herein, and such local agent shall receive on each policy the full and usual commission allowed and paid by such company or association to its agents on business written or done by them for it; Provided, however, That this section shall not apply to policies of re-insurance issued to another fire insurance company regularly authorized and transacting a general fire insurance business in this State, nor to policies of insurance on the rolling stock of railroad companies doing a general freight and passenger business."

It will be noted that it is provided in this statute that "such local agent shall receive on each policy the full and usual commission allowed and paid by such company or association to its agents on business written or done by them for it."

This statute and the section immediately following it were enacted originally as Chapter 5166 of the Acts of 1903. This act was designed primarily, as I understand it, to prevent any division of commissions allowed and

paid to agents by insurance companies doing business in Florida and, while it may not in express terms cover a situation such as is described in your inquiry, it is apparent that the intent and purpose of the legislation was to put an end, in so far as the Legislature had the power, to the practice of dividing the commission allowed to agents by insurance companies upon business done in this State.

Thus construed, the statute, in my opinion, forbids the arrangement outlined in your inquiry as hereinabove stated.

Respectfully submitted,

T. F. WEST,

Attorney General.

DIVIDENDS ON POLICY CONTRACTS—EXEMPTION FROM TAXATION.

Tallahassee, Fla., April 22, 1916.

*Honorable J. C. Luning, State Treasurer,
Capitol.*

Dear Sir:—

Yours of the 21st inst has been received and noted.

After reciting certain facts relative to the subject of your inquiry, you state the question submitted to this office as follows:

“The question is, are dividends declared on policy contracts exempt from taxation under Section 29 of Chapter 6421, Laws of Florida?”

Replying to your inquiry, I now confirm the verbal opinion heretofore given you; that the amounts received by insurance companies from policy holders on account of premiums paid by them and which may or may not be paid out by the companies to the policy holders as dividends

(usually at the option of the policy holders, as I understand the contracts) are not exempt from the tax imposed by the statute referred to.

You will note that the tax imposed is "two per cent of the *gross amount* of receipts of premiums from policy holders in this State."

Respectfully submitted,

T. F. WEST,

Attorney General.

FRATERNAL BENEFIT ASSOCIATIONS — "HERALDS OF LIBERTY"—PERMIT UNDER CHAP. 6970, ACTS 1915.

Tallahassee, Fla., August 15, 1916.

*Hon. J. C. Luning, State Treasurer,
Capitol.*

Dear Sir:—

At your request I have again considered the question of whether or not you would be warranted, under the provisions of Chapter 6970, Acts of 1915, Laws of Florida, in issuing a permit to the Heralds of Liberty to do the business of a fraternal benefit association in this State. I heard Honorable A. W. Cockrell, attorney for this association, in its behalf, have read his communication to you and have given careful consideration to each of his arguments and suggestions.

From my consideration of the questions involved, which has been as extensive as the time available would permit, I have concluded that the decision heretofore reached when this application was originally presented is correct and that the plan of business and insurance contracts issued by this association to its members are such as put it outside the definition of the term "fraternal

benefit society" as such societies are defined in this statute. .

It is not necessary, but it would perhaps be more satisfactory to interested parties, to point out certain inconsistencies between the plan of business of this association and the statute.

One which to my mind is controlling is this: By the plan of business of this association its certificate holders are grouped according to age, and each member of each group is designated by a number, the usual number in a group being 26, and the numbers given to such group-members are 1 to 26, respectively. By the contracts of insurance of the certificate holders it is provided that in case of the death of any one of such certificate holders in any group the beneficiary shall receive a sum equal to the face of the certificate, and in addition to this the certificate holder who happens to be designated as number 1 of such group receives also a like amount paid from the treasury of the association.

This payment is, in my opinion, not authorized by the provisions of the statute and is not in accord with what seems to be regarded as sound principles of fraternal insurance, since it involves an element of speculation and profit to certain certificate holders who happen to get into preferred positions at the expense of the fund in which all are interested. In theory the certificate holders are related by ties of fraternal interest looking to their mutual protection, and this "endowment" idea is not in harmony with this theory.

In addition to this, I think it doubtful if the government of this association is representative, as that term is defined in the statute, as will appear upon a comparison of Section 3 of the statute with the by-laws of the association on the subject.

Another matter which is of interest, though not con-

trolling, is the financial condition of this association as it appears from the report of the examination made at the instance of the insurance departments of the States of Alabama and Florida. From this report it appears that the liabilities, actual and contingent, of this association are much greater than its assets, actual and contingent, and that the excess of liabilities over assets is increasing, as appears from the attached sheet taken from page 18 of this report.

Respectfully submitted,

T. F. WEST,

Attorney General.

ASSETS, ACTUAL AND CONTINGENT.

Present Mid-Year Value of Future Contributions:

(a)	On certificates containing Death and Old Age Benefits.....	\$ 1,549,117.96
(b)	Whole Life Plan.....	305,879.78
	Admitted Assets available for Claims	101,017.27
Total		\$ 1,956,015.01

LIABILITIES, ACTUAL AND CONTINGENT.

Present Mid-Year Value of Promised Benefits:

(a)	Certificates containing Death and Old Age Benefits.....	\$ 2,636,805.49
(b)	Whole Life Plan.....	336,735.27
	Accrued Liabilities.....	53,692.76
Total		\$ 3,027,233.12

Value of Benefits promised.....	2,973,540.76
Value of Future Contributions.....	1,854,997.74
Net Value or Reserve.....	\$ 1,118,543.02
Less Assets.....	46,512.41
Deficiency	\$ 1,072,030.61
Deficiency last Departmental Examination	987,970.00
Increased in Deficiency for the Period	\$ 84,060.61

Opinions to State Superintendent of Public Instruction.

MEMBERS OF COUNTY SCHOOL BOARD CANNOT LEGALLY RECEIVE PER DIEM AND MILEAGE FOR INSPECTING PUBLIC SCHOOLS.

Tallahassee, Fla., January 12, 1915.

*Hon. W. N. Sheats,
State Supt. Public Instruction,
Tallahassee, Fla.*

Dear Sir:—

Yours of the 7th inst. has been received.

I note your inquiry, as follows:

“Please give me your opinion as to whether members of a County School Board can legally receive their per diem and mileage, or either, while traveling over the county inspecting public schools.”

Replying, I will say that, in my opinion, there is no

legal authority for paying from public funds a per diem or mileage to members of the Boards of Public Instruction of the counties of this State while traveling over the county inspecting public schools.

Respectfully submitted,

T. F. WEST,

Attorney General.

LEGALITY OF SCHOOL BOARD ACCEPTING BIDS
FOR BUILDING SCHOOL HOUSE BEFORE
BONDS ARE VOTED.

Tallahassee, Fla., June 9, 1915.

*Hon. W. N. Sheats,
State Superintendent,
Tallahassee, Florida.*

Dear Sir:—

Yours of the 8th instant has been received.

I note your request, as follows:

“Please give me your opinion as to whether a County Board of Public Instruction can legally accept bids for erecting a school building under the Bonding Act of 1913, before the vote has been taken for the issuance of bonds, and thereby avoid the necessity of advertising for bids after the votes has been cast for said bonds.”

The statute on the subject is Section 12 of Chapter 6542, Acts of 1913, Laws of Florida, as follows:

“As soon as practicable after the said bond issue has been voted upon and authorized, if the same be for the purpose of acquiring, enlarging, furnishing or otherwise improving school buildings, the County Board of Public Instruction, upon the recommendation of the Trustees of such special tax school district, shall prepare proper

plans and specifications therefor; and after advertising the same in the manner prescribed by law, shall award the contract for such building or improvements, to the lowest responsible bidder therefor; provided that the contract price shall not exceed the amount of the bonds authorized to be issued and provided further that the County Board may within their discretion reject any and all bids received if they deem the same expedient and re-advertise the contract until a satisfactory bid is received and accepted."

It will be noted that the statute provides that as soon as practicable *after the said bond issue has been voted upon and authorized*, the County Board of Public Instruction, upon the recommendation of the Trustees of such district, shall prepare plans and specifications and, after advertising the same in the manner prescribed by law, shall award the contract for the building or improvements contemplated to the lowest responsible bidder.

It is possible that a bid for erecting a school building could be legally accepted before the vote has been taken for the issuance of bonds, although the statute quoted expressly provides that the contract for the building or improvements contemplated shall be awarded after the said bond issue has been voted upon and authorized, but the safe course to pursue is to comply with the statute, and I advise that this course be pursued in all cases.

Respectfully submitted,

T. F. WEST,
Attorney General.

RELIGIOUS EXERCISES IN PUBLIC SCHOOLS.

Tallahassee, Fla., October 7, 1915.

*Hon. W. N. Sheats,
State Superintendent,
The Capitol.*

Dear Sir:—

Yours of the 5th inst., has been received. I note your inquiry as follows:

"I desire your written opinion upon the following question:

"Whether or not there is anything in the laws of Florida prohibiting the reading of a few select passages of scripture and the offering of the Lord's Prayer, or any other appropriate prayer, in the opening exercises of a public school."

Replying to this inquiry, I would say that, in my opinion, there is nothing in the laws of this State prohibiting the reading of passages of scripture and offering a prayer in the opening exercises of the public schools of this State.

Yours very truly,

T. F. WEST,

Attorney General.

WHEN NORMAL SCHOOL AND COLLEGE GRADUATES MAY ACQUIRE CERTIFICATES UNDER CHAPTER 6540.

Tallahassee, Fla., October 14, 1915.

*Hon. W. N. Sheats, State Supt. of Pub. Instruction,
Tallahassee, Fla.*

Dear Sir:—

I have yours of October 5 submitting the following for my opinion:

“Please give me your written opinion upon Section 1, Chapter 6540 of the Session Laws of 1913, whether I am authorized under that Section to issue State Certificates to those who have taken and completed the course in college and the universities of the State for instruction in the primary grades. Please notify me, and please state what average percent the graduates in such departments will be required to make on the subjects taken. As I understand it, many take this course spending only one or two years in the college. I am asked to issue such graduates certificates authorizing them to teach in the Primary Departments of the graded schools, and I desire your opinion as to whether I am protected under this law in so doing.”

In reply I beg to advise that in my opinion Section 1 of Chapter 6540, Acts of 1913, included within its terms all students who complete and graduate from the College of Liberal Arts and Sciences in the University of Florida, the Florida State College for Women, and such other institutions of higher learning as comply with the regulations prescribed by the State Board of Education and the State Board of Control, provided that one-fifth of the time of all such students who desire to take advantage of the provisions of the Act be given to professional training, and provided further, that at the close of the junior and senior years of such students they make a general average of 85

per cent on all examinations required, with no mark below 60 per cent in any study.

The provisions of this Act are also extended to the graduates of the Normal Departments of the same institutions as herein named, provided that the same requirements as to examinations are met.

In the State institutions of higher learning the course in the liberal arts and sciences embraces four years' work above the Senior or four-year High School. The professional or normal school embraces four years above Junior High School or two years above Senior or four-year High School.

I do not think that a graduate of any school would be entitled to take advantage of the provisions of this Act without having met the requirements as here stated.

Respectfully submitted,

T. F. WEST,

Attorney General.

STUDENTS GRADUATING SUBSEQUENT TO PASSAGE OF CHAPTER 6838, LAWS 1915, MAY RECEIVE CERTIFICATE AUTHORIZED.

Tallahassee, Fla., October 29, 1915.

*Hon. W. N. Sheats, State Supt. Pub. Instruction,
Tallahassee, Florida.*

Dear Sir:—

I have yours of October 25th, submitting the following for my opinion:

“Please give me your opinion upon the following:

“Is the State Superintendent authorized to issue certificates under Chapter 6838, Session Laws of 1915, approved

June 4th, 1915, to students who attended the State schools for the school year 1914-15, the schools closing some time about the first of June, or possibly a few days after the present law was signed?"

In reply, I beg to advise that Section 9 of Chapter 6838, as above referred to, provides that the said Act shall take effect immediately upon its passage and approval by the Governor. The Act was approved June 4, 1915, and was, by such approval, in effect after that date.

In view of this provision, I am of the opinion that you will be authorized to issue certificates as provided in this Chapter to students who graduated subsequent to the approval thereof by the Governor.

Respectfully submitted,

T. F. WEST,

Attorney General.

BOARDS OF PUBLIC INSTRUCTIONS—AUTHORITY
TO USE SCHOOL BUILDINGS FOR MEETINGS,
ETC.

Tallahassee, Fla., March 24, 1916.

*Hon. W. N. Sheats, State Supt. Pub. Instruction,
Tallahassee, Florida.*

Dear Sir:—

I have yours of March 20 submitting the following inquiry:

"Please give me your opinion as to whether a County Board of Public Instruction has the right to debar a sect or a church organization from holding meetings in a public school building on the ground that such sect or church teaches in said buildings that it is wrong to bear arms in case of war, and that if our Government should demand

that they should bear arms, in case war is declared, they will refuse to do so."

By reference to the first paragraph of Section 347 of the General Statutes, you will note that the Boards of Public Instruction of the various counties are directed:

"First.—To obtain possession of, accept and hold, under proper title, as a corporation, all property possessed, acquired or held by the county for educational purposes, and to manage and dispose of the same for the best interest of education."

Under the provisions of this statute, such questions as are presented in your inquiry should, in my opinion, be left to the discretion of the Boards of Public Instruction of the counties.

Respectfully submitted,
T. F. WEST,
Attorney General.

SCHOOL BOARD DISTRICTS—REDISTRICTING
COUNTY—CREATION OF NEW COUNTY.

Tallahassee, Fla., March 31, 1916.

Hon. W. N. Sheats,
State Superintendent of Public Instruction,
Tallahassee, Florida.

Dear Sir:—

The communications of Honorable D. N. Trotman and M. P. Rushing and your verbal request for my opinion affecting the subject matter of these communications have been received at this office.

In reply I beg to advise that it appears that Mr. W. P. Hart of Dorcas, Florida, a former citizen and member of

the Board of Public Instruction of Walton County, has been a citizen of the new County of Okaloosa since its creation last September, and that by virtue of such citizenship and non-residence in Walton County, he is disqualified as a member of the Board of Public Instruction of Walton County.

It further appears that since the creation of Okaloosa County the Board of Public Instruction of Walton County has been composed of only two members and that some time since last September the Board undertook to re-district the said county into new School Board Districts.

Section 349 of the General Statutes, among other provisions, contains the following:

"The County Board of Public Instruction may thereafter change the boundaries of any such districts at a meeting in July of the year of a general election, that such change shall be certified in the Clerk's office and published as required for fixing such districts in the first instance."

In view of the law as above quoted, it would seem that the purported re-districting of Walton County into new School Board Districts would be of no effect, since such action could not have been taken until July of this year.

I would suggest that the vacancy on the Board of Public Instruction be filled for the present by the appointment of some one from that part of the district formerly represented by Mr. Hart which is still embraced in Walton County and then, if the Board sees fit, in July of this year it could proceed to re-district the county.

Respectfully submitted,

T. F. WEST,

Attorney General

HIGH SCHOOLS—TEACHERS' TRAINING DEPARTMENT—AUTHORITY TO EMPLOY TEACHER.

Tallahassee, Fla., April 20, 1916.

*Hon. W. N. Sheats,
State Supt. of Public Instruction,
The Capitol.*

Dear Sir:—

I have your verbal inquiry, stated as follows:

Chapter 6830, Acts of 1915, provides for the creation and establishment of Teacher Training Departments in certain High Schools in this State. Are Boards of Public Instruction in the counties where such Training Departments are established authorized to employ teachers for such departments without the approval of the State Board of Education?

In reply I beg to advise that Section 1 of Chapter 6830 contains the following provision:

"The State Board of Education shall provide a Teacher Training Department in one High School in each County of the State under such rules and regulations as shall be adopted by the State Board of Education provided that such High School shall have not less than ten pupils ready and prepared for and who will take the Teacher Training Course of Study."

It will be observed that the law as above quoted provides that Teacher Training Departments shall be established "under such rules and regulations as shall be adopted by said State Board of Education."

Regulation 2, affecting such schools and adopted by the State Board of Education, is as follows:

"The teacher of the Teacher Training Department of every County High School may be nominated by the County Board of Public Instruction, but must be ap-

proved by the State Board of Education before any appropriation will be made by such State Board for the salary of the teacher of any such Department."

From the regulation as above quoted, it appears that County Boards of Public Instruction only have authority to nominate teachers for Teacher Training Departments and that such nominations must be confirmed by the State Board of Education before becoming effective.

Respectfully submitted,

T. F. WEST,

Attorney General.

BOARD OF PUBLIC INSTRUCTION—AUTHORITY
OVER EXPENDITURE OF FUNDS OF SPECIAL
TAX DISTRICTS.

Tallahassee, Fla., May 25, 1916.

Hon. W. N. Sheats,
State Superintendent,
Tallahassee, Fla.

Dear Sir:—

I have your communication of April 25th, submitting the following inquiries:

"1. Has a County Board of Public Instruction authority to place a limit upon the amount of an order which the Board of Trustees of a Special Tax School District may make upon the funds of that District, provided that no debt upon the District is thereby created?

"2. Has a County Board of Public Instruction authority to borrow the funds of a Special Tax School District without or with the consent of the Trustees of that District?

"3. Has a County Board of Public Instruction au-

thority to pay any bills for a Special Tax School District without an order for such payment from the Trustees of that District?"

In reply, I beg to advise that Sections 409, 410 and 413 of the General Statutes define the manner in which Special Tax School District funds raised in this State shall be disbursed.

Section 409 of the General Statutes is as follows:

"409. Application of School Funds.—The board of trustees shall have the further right to say what proportion of the school funds raised within the district shall be applied in any year to buildings, repairs on buildings, to school libraries, to salaries of teachers and to other educational purposes; Provided, That they shall make a fair and equitable distribution of the funds among all the schools in the special tax school district, which shall be shown in their itemized estimate."

That part of Section 410 which is pertinent is as follows:

"It shall be the duty of these trustees on or before the first day of June in each year, to prepare an itemized estimate, showing the amount of money necessary and likely to be raised for the supplement of the county school funds appropriated to the district for the next ensuing scholastic year, and to certify therein the rate of millage to be assessed and collected upon the taxable property within the special tax school district for that year. This estimate shall set forth clearly the apportionment of money raised within the district, prorated to each school within the district, stating the amount that will be applied to the salaries of teachers, buildings, furniture or for other educational purposes."

That part of Section 413 which is pertinent is as follows:

"The special tax fund set apart by the board of trustees for the payment of teachers shall not be subject to requi-

sition for any other purpose by said trustees; the fund estimated for other educational purposes shall be paid out by warrants of the board of public instruction of the county upon the county treasurer, and said warrants to be based upon requisitions made by the board of trustees, accompanied by itemized bills for things purchased or work performed. All special funds collected within a school district shall be disbursed solely for school purposes within the district in which the tax is collected, and, as near as practicable, in the year in which the tax is collected, upon the recommendation of the board of trustees."

In view of the law as above quoted, it appears that as long as the special tax school district trustees are living in compliance therewith, the board of public instruction would have no authority to place any limitation on their conduct.

In reply to your second inquiry, will state that I know of no law authorizing boards of public instruction to borrow special tax school district funds.

Your third question is clearly answered by that part of Section 413 which is quoted above.

Respectfully submitted,

T. F. WEST,

Attorney General.

Opinions to Commissioner of Agriculture.

SUBSEQUENT SPECIAL ACT REPEALS GENERAL ACT GOVERNING SALT WATER FISHING.

Tallahassee, Fla., July 22, 1915.

*Hon. W. A. McRae,
Commissioner of Agriculture,
Capitol.*

My dear Sir:

The following communication has been received from Hon. T. R. Hodges, Shell Fish Commissioner of your department, requesting opinion as follows:

"Section 13, page 7, of the Saltwater Fish Law provides as follows:

"It shall be unlawful for any person, persons, firm or corporation to take or catch any fish with haul seines or drag nets in any or all of the salt waters of the Counties of Volusia, Brevard, St. Lucie, Palm Beach, Broward, and all salt waters in Dade County North of Biscayne Bay."

"This provision was formerly covered by Chapter 5973, Acts of 1909. In this connection I wish to call your attention to a local law, passed for St. Lucie County, found on page 29, of the General and Special Laws, Relating to Saltwater Fisheries, which provides for a size of mesh of seines in Section 1 and in Section 2 provides for the repeal of the old law, enacted in 1909, Chapter 5973. This special law was introduced and passed previous to the enactment of the General saltwater fish law quoted above.

"I would thank you to give me your opinion as to whether this local law in any way abrogates the provisions of the General Law so far as seining in St. Lucie County is concerned."

Answering above inquiry will state that it will be ob-

served that Chapter 6877 is a law of a general nature, while Chapter 7100 is a special or local law for St. Lucie County.

Section 13 of Chapter 6877, quoted in Mr. Hodges' letter, provides as follows:

"It shall be unlawful for any person, persons, firm or corporation to take or catch any fish with haul seines or drag nets in any or all of the salt waters of the counties of Volusia, Brevard, St. Lucie, Palm Beach, Broward, and all salt waters in Dade County north of Biscayne Bay."

Section 26 of the same act provides that:

"All laws and parts of laws, whether general or local in their nature, in conflict with this act, be and the same are hereby repealed."

The above provision would appear as a repeal of all laws which were passed and became operative prior to May 26th, 1915, the date it became effective.

Section 1 of Chapter 7100 reads as follows:

"It shall be unlawful for any person, firm or corporation to take or catch any fish with haul seines or drag nets in any or all of the salt or fresh waters of the county of St. Lucie, the mesh of which shall be less than three and one-half inches stretched measure, that is to say three and one-half inches when brought to a square."

It will be observed that the latter act authorizes the use of "haul seines or drag nets" in the salt or fresh waters of St. Lucie county; and section 4 thereof repeals all laws in conflict therewith as to the waters of St. Lucie county.

The legislature is empowered by Section 20 of Article III, of the Constitution of Florida of 1885, to enact special or local laws within its discretion for regulating the taking of fish and game in this State, and there being positive repugnancy between said Section 13 of Chapter 6877 of the General Laws, and Section 1 of Chapter 7100 of the Special Laws, the only thing to be determined is

whether or not the special law repeals, by implication, the general law in so far as it affects St. Lucie County.

In his communication he states that this special law was introduced and passed previous to the enactment of the general law relating to salt water fishing. In this he appears to be mistaken. I find that the general law was approved by the Governor on May 25, 1915, and went into effect immediately. I find also that the local law (said Chapter 7100) referred to, was passed by the legislature and signed by the Governor and became effective on June 4, 1915.

The rule which governs, where both acts were passed at the same session of the legislature, is that it is presumed that different acts on the same subject passed at the same session of the legislature are imbued with the same spirit and actuated by the same policy, and they should be construed each in the light of the other, and that the legislature did not intend to keep really contradictory enactments on the statute books, and that such an interpretation leading to such result should not be adopted, unless it be inevitable.

But the conflict here presented is inevitable; and, therefore, the special law, being a subsequent act, repeals by direct implication the general law, in so far as it undertakes to prohibit the use of haul seines and drag nets in the taking of fish in the salt waters of St. Lucie County.

Respectfully,

T. F. WEST,
Attorney General.

POLICE LICENSE REQUIRED OF FISHING BOATS
ENGAGED IN BRINGING FISH INTO THE
STATE FOR SALE.

Tallahassee, Fla., July 22, 1915.

*Hon. W. A. McRae, Commissioner of Agriculture,
Capitol.*

Dear Sir:—

A request for opinion, under date of July 10, 1915, from Hon. T. R. Hodges, Shell Fish Commissioner of your department, has been received, in which he states that a great many boats that are engaged in the fishing industry in this State catch fish outside the jurisdiction of the State and bring them into the State for sale, and he desires to be advised as to whether or not such boats are liable to the boat tax set forth in Section 14 of Chapter 6877, Laws of 1915.

Answering above inquiry, beg leave to call your attention to the second paragraph of Section 14 of said chapter, which provides that:

“Any and all boats or vessels engaged in the fishing industry in the salt waters of the State before beginning operations must first procure a police license from the Commissioner of Agriculture, * * * .”

The same section of the Act, in paragraph seven (page 168, Acts of 1915) provides that:

“Payment of this police license and the compliance with the provisions and regulations shall be required of any and all vessels and boats engaged in fishing or freighting fish or otherwise engaged in the fish industry, and all such license tax shall be collected by the Shell Fish Commissioner or his duly authorized deputies.”

It appears that the provision “all vessels and boats engaged in fishing or freighting fish or otherwise engaged in the fish industry,” when bringing their fish within the boundaries of the State as defined by Article I of the Con-

stitution of 1855, to any port within the State for barter or sale, when construed, in connection with the other paragraphs of the same section would necessarily include such boats as engage in catching fish outside the jurisdiction of the State and afterwards bringing them into the State for sale.

Respectfully,

T. F. WEST,
Attorney General.

AUTHORITY OF AGRICULTURAL DEPARTMENT
TO ADOPT STANDARD FOR IMMATURE CIT-
RUS FRUIT AS PROMULGATED BY U. S. DE-
PARTMENT OF AGRICULTURE.

Tallahassee, Fla., September 28, 1915.

Hon. W. A. McRae,
Commissioner of Agriculture;

Hon. R. E. Rose,
State Chemist,
The Capitol, Tallahassee, Florida.

Dear Sirs:

Your communication of the 28th inst. has been received. I note your inquiry as follows:

"For the guidance of the Agricultural Department in the execution of the Pure Food and Drugs Law of the State, Chapter 6122, Acts of 1911, as amended by Chapter 6541, Acts of 1913, approved June 13, 1913, and 'An Act to Define Immature Citrus Fruit and to Fix Standards for Mature Citrus Fruit, etc.,' Chapter 6515, Acts of 1913, your opinion is respectfully requested.

"We would be pleased to have your opinion as to the legality of the adoption by the Agricultural Department of the State of Florida of the standards for immature

citrus fruit as promulgated by the U. S. Department of Agriculture, September 23, 1915, a copy of which is attached."

Section 15 of Chapter 6541, Acts of 1913, referred to by you, is in the following language:

"That the definitions and standards of foods and drugs prescribed by the Act of Congress, approved June 30th, 1906, entitled 'An Act for Preventing the Manufacture, Sale or Transportation of Adulterated or Misbranded or Poisonous or Deleterious Foods, Drugs, Medicines or Liquors, and for Regulating Traffic Therein, and for Other Purposes,' and amendments thereto, be and the same are hereby adopted and declared to be the definitions and standards of foods under the terms and meaning of this Act, and that no article of food shall be deemed to be adulterated under the terms of this Act other than those defined and found to be adulterated, poisonous, deleterious or a detriment to health under the provisions of the Food and Drugs Act of Congress, approved June thirtieth, nineteen hundred six, and amendments thereto. That the Commissioner of Agriculture, with the advice of the State Chemist, shall establish such rules and regulations as shall not be inconsistent with the provisions of this Act; in conformity with the rules and regulations formulated by the United States Department of Agriculture, by authority of the National Food and Drugs Act of June thirtieth, nineteen and six, and amendments thereto."

Section 2 of Chapter 6515, Acts of 1913, also referred to by you, is in the following language:

"That the execution and the enforcement of this law and the immature Citrus Fruit Law, Chapter 6236, Laws of Florida, shall be under the general provisions, rules and regulations of the Pure Food and Drug Law, Chapter 6122, Laws of Florida, and amendments thereto."

In view of these statutes, and without undertaking to compare and analyze the various statutes on this subject, I beg to advise that, in my opinion, the standard for immature citrus fruits promulgated by the United States Department of Agriculture, September 23, 1915, may be adopted as the standard of citrus fruits which go into interstate shipments from this State.

Respectfully submitted,

T. F. WEST,
Attorney General.

SHELL FISH LAW APPLICABLE TO WATERS OF
ST. JOHNS RIVER.

Tallahassee, Fla., October 5, 1915.

*Hon. W. A. McRae,
Commissioner of Agriculture,
Tallahassee, Florida.*

Dear Sir:

I have yours of September 14 submitting the following for my opinion:

"Chapter 6877, Act of 1915, is to protect and regulate the Salt-water fishing industry of the State of Florida and places the enforcement of same under the State Shell Fish Commissioner and his deputies.

"Section 1 of this Act declares the ownership of all fish in the rivers, bayous, lagoons, lakes, bays, and sounds and inlets, bordering on or connected with the Gulf of Mexico and the Atlantic ocean, or in the Gulf of Mexico or Atlantic ocean, within the jurisdiction of the State, with such restrictions and reservations as imposed by the Act.

"Now the St. Johns river is connected with the Atlantic ocean and saltwater arises as far up as Welaka and Lake George. Shad, mullet and herring, all saltwater fish,

inhabit these waters and something like \$100,000 worth of these saltwater fish are shipped from Welaka alone during the season. Shrimp, a saltwater shell fish, inhabit these waters also in great numbers. It is a well known fact that shrimp will not live in fresh water.

"Shell Fish Commissioner Hodges wishes to know whether or not his jurisdiction extends in these waters which are inhabited by saltwater fish. Will you kindly give me your opinion on this matter and much oblige."

In reply I beg to advise that the matter of your inquiry is fully covered by Section 1 of Chapter 6877, Acts of 1915.

I am of the opinion that the administration of the "salt water fishing industry" in the waters in question is within the jurisdiction of the Shell Fish Commissioner.

Respectfully submitted,

T. F. WEST,
Attorney General.

LICENSE—SALT WATER FISHING WITH HOOK
AND LINE.

Tallahassee, Fla., October 9, 1915.

*Hon. W. A. McRae, Commissioner of Agriculture,
Tallahassee, Fla.*

My dear Sir:—

I have yours of October 5th enclosing published letter to Hon. Arthur Gomez of Key West from this office under date of September 21, 1915, and note your inquiry as follows:

"I note your letter to Hon. Arthur Gomez of Key West as per printed copy attached, relative to collection of license tax on hook and line fishermen.

"You quote him the last paragraph in Section 14, which said:

"The payment of a license tax, or the procuring of any

license, shall not be required of persons fishing only with hook and line or with rod and reel or similar device.'

"I am afraid that the commercial hook and line fishermen will take this to mean that the boat is exempt from taxation. I presume your interpretation is that this relieves a fisherman of a personal tax and not the boat tax. The intention of the Legislature was to relieve the non-resident or tourist from a license tax to fish for pleasure with hook and line or rod and reel, but not those fishing commercially from payment of the boat tax.

"Kindly advise me if in your opinion this covers a personal tax or the tax on the boat."

In reply I beg to advise that this office understood the communication of Mr. Gomez, above referred to, as making inquiry only about the personal license tax under the Salt Water Fish Law, and not the tax imposed upon boats used in this industry; and in answering his communication the boat license feature of the act was not considered, and my letter should not be construed as holding that boats used by fishermen are exempt from taxation.

Respectfully submitted,

T. F. WEST,
Attorney General.

JUDGMENTS—SENTENCES OR COMMITMENTS RUNNING CONCURRENTLY.

Tallahassee, Fla., October 22, 1915.

Hon. W. A. McRae,
Commissioner of Agriculture,
Tallahassee, Florida.

Dear Sir:—

Yours of the 22nd instant has been received.

I note your inquiry, as follows:

"I am herewith handing you correspondence and copies

of commitments in the case of Eugene Jackson, who was convicted in the Circuit Court of Holmes County, and sentenced on the 31st of October of last year, 1914, to a term of eight months in the county jail of Holmes County. You will please note that the correspondence indicates that it was the intention of the court that this man should serve eight months each for two offenses, but the commitment to the prison reads that the sentences were to run concurrent. I will thank you for your opinion as to whether or not this man is being held without authority, as considerably more than eight months has elapsed since his delivery to the prison."

Attached to your letter I find two commitments in the case of State vs. Eugene Jackson, each of said commitments being dated October 31, 1914. In one of them the defendant is sentenced to be confined in the county jail of Holmes County at hard labor for the period of eight months, and under the other he is given a like sentence, and it appears from the commitment in the last mentioned case that this sentence is to run concurrently with the one in the other case.

"Concurrently," in the sense in which the word is used here, means to run together, or existing or happening at the same time.

This being the case, the terms of imprisonment in the two cases run concurrently or at the same time, and if the prisoner was committed immediately after the sentence, his term of imprisonment has, of course, expired.

Respectfully submitted,

T. F. WEST,
Attorney General.

PHOSPHATE SOLD AS FERTILIZER—SUBJECT TO
REGISTRY AND INSPECTION FEE.

Tallahassee, Fla., January 14, 1916.

Hon. W. A. McRae,
Commissioner of Agriculture,

Hon. R. E. Rose,
State Chemist,
Tallahassee, Florida.

Gentlemen:—

I have yours of January 6th submitting the following for my opinion:

"This department respectfully requests your official opinion as to the sale of hard or soft phosphate to consumers by manufacturers or dealers, without the guaranteed analysis and inspection stamp required by Sec. 3, Chapter 4983, Acts of 1901 (Sec. 1264, General Statutes, as amended by Chapter 5660, Acts of 1907). Also Sec. 5, of the law (Sec. 1270 General Statutes). Also Sec. 11, of the law (Sec. 1273 General Statutes).

"We attach the circular advertisement of manufacturers, offering the material to the public, who have not registered their guaranteed analysis nor paid their inspection fee required by law.

"We would be pleased to have your opinion on the following points:

"Are raw phosphates, hard or soft phosphates, when sold to consumers, classed as fertilizers, containing as they do, phosphoric acid, as defined in Sec. 11, and are they liable to the guarantee as provided in Sec. 2, registered, as provided in Sec. 5, and subject to the inspection fee, provided in Sec. 2 and Sec. 6?

"This department has ruled that these materials when sold to consumers, are properly classed as commercial fertilizer and subject to guarantee and payment of inspection fee as provided by law."

In reply I beg to advise that the subject matter of your inquiry is fully covered in Sections 1267, 1268 and 1273 of the General Statutes, which read as follows:

"1267. To file name of principal agent with Commissioner of Agriculture. Any manufacturer or importer of or agent for the sale of commercial fertilizers, previous to offering the same for sale in this State, shall file with the Commissioner of Agriculture annually a paper giving the name of his principal agent or agents in the State of Florida, also the name and guaranteed analysis, under oath, of the fertilizer or fertilizers offered for sale by him."

"1268. Fee to be paid by the manufacturer.—Every manufacturer, importer, agent or seller of any commercial fertilizer, cotton seed meal, castor pomace, tobacco stems, tobacco dust or tobacco meal, shall pay to the State Treasurer a fee of twenty-five cents for each and every ton offered for sale in this State: Provided, That when the manufacturer or importer shall have paid the fees herein required for any person acting as agent or seller for any manufacturer or importer, such agent or seller shall not be required to pay the fee named in this section."

"1273. Meaning of 'commercial fertilizer'.—The term 'commercial fertilizer' as used in this chapter, shall be taken to mean all substances containing nitrogen, potash or phosphoric acid; also cotton seed meal, castor pomace, tobacco meal, sold, offered or exposed for sale and ordinarily used for manurial purposes, excepting barn yard or stable manure and crude cotton seed."

In view of the law as above quoted, I am of the opinion that cotton seed meal, castor pomace, tobacco stems, tobacco dust, tobacco meal, hard phosphate, soft phosphate, or any other substance containing nitrogen, potash or phosphoric acid, sold, offered or exposed for sale to the consumer to be used as fertilizer would be embraced within the meaning of the term "commercial fertilizers" as

defined in Section 1273, as above quoted, and would be subject to registry and to the inspection fee as provided in Sections 1267 and 1268, herein referred to.

Very respectfully,

T. F. WEST,
Attorney General.

SALT WATER FISH—SHRIMP AND CRABS.
LICENSE TAX.

Tallahassee, Fla., May 24, 1916.

*Hon. W. A. McRae, Commissioner of Agriculture,
Tallahassee, Florida.*

Dear Sir:—

I have your communication of May 1st, submitting the following inquiry:

“The question arises whether or not a license tax should be collected from persons engaged in selling shrimp and crabs, as provided by Section 14, Chapter 6877, Acts of 1915.

“I believe shrimp, crawfish and crabs have been considered salt water fish by the laws of other States and I would thank you to give me your opinion as to whether or not we should collect license taxes from those engaged in handling those kinds of salt water fish.

In reply, I to advise that I am of the opinion that under and by virtue of the recent decision of our Supreme Court in *Ex parte Gilletti*, and various decisions of other courts affecting the subject-matter of your inquiry, you would be authorized, under Section 14 of Chapter 6877, Acts of 1915, to collect a license tax from any person selling shrimp or crabs in this State.

Respectfully submitted,

T. F. WEST,
Attorney General.

LOCAL OPTION—VIOLATORS TRIABLE IN WHAT COURTS?

Tallahassee, Fla., May 24, 1916.

*Hon. W. A. McRae,
Tallahassee, Florida.*

Dear Sir:—

Yours of the 22nd instant has been received.

I note your inquiry, as follows:

"I am herewith submitting for your consideration a letter from one of our State Prison Supervisors, Mr. W. H. Brett, Jr., in which he asks for an opinion concerning the holding of prisoners convicted in certain cases for violating the 'Local Option' Law. The letter is self-explanatory, I will appreciate it if you will give us your opinion in the matter and I will in turn advise Mr. Brett."

The questions submitted are answered by Chapter 6861, Acts of 1915, Laws of Florida. Section 1 of this act prescribes the penalty for selling liquors, wines or beer in dry counties or precincts, and Section 41½ requires that such cases shall be tried in the County Judge's Court in counties where County Courts or Criminal Courts of Record have not been established, and not in the courts of the Justice of the Peace of the county.

Section 3 of the act prescribes the penalty in those cases where the defendant has been before convicted of a like offense. In counties having no County Court or Criminal Court of Record these cases are tried in the Circuit Court and not in the County Judge's Court.

Respectfully submitted,

T. F. WEST,
Attorney General.

SHELL FISH DEPARTMENT — JURISDICTION
OVER TIDE-WATERS.

Tallahassee, Fla., June 14, 1916.

*Honorable W. A. McRae,
Commissioner of Agriculture,
Tallahassee, Florida.*

Dear Sir:—

I have your communication of June 10th, submitting the following inquiry:

“Section 14 of Chapter 6877, Acts of 1915, provides:

“The use of pound nets shall be unlawful in the waters of the State of Florida.

“Article I of the Constitution provides that the boundaries of the State shall be from the Tortugas Islands northeastwardly to a point three leagues from the land to a point west of the mouth of the Perdido River; thence to place of beginning.

“The question arises in my mind whether or not the State of Florida has a jurisdiction beyond that of the United States, which is one marine league from the mainland, instead of three marine leagues, as claimed by Florida. I would thank you to give me your opinion as to whether this department can exercise its jurisdiction over the salt waters beyond the jurisdiction claimed by the United States.

“Kindly give me your opinion for the guidance of the Shell Fish Department.”

In reply, I beg to advise that the matter of your inquiry appears to be covered in *McCready v. Virginia*, reported in 94 U. S. 391, text 394. The court said:

“The principle has long been settled in this court, that each State owns the beds of tide waters within its jurisdiction, unless they have been granted away. In like manner, the States own the tide waters themselves, and

the fish in them, so far as they are capable of ownership while running."

This view was also sustained in the Abby Dodge case, reported in 223 U. S. 166.

In view of the above, it would seem that the jurisdiction of your department would extend over all tide waters within the jurisdiction of this State.

Respectfully submitted,

T. F. WEST,
Attorney General.

COMMERCIAL FEEDING STUFFS—INSPECTION
STAMPS—RULE WHEN STAMPS DAMAGED.

Tallahassee, Fla., July 25, 1916.

*Hon. W. A. McRae, Commissioner of Agriculture,
Tallahassee, Florida.*

Dear Sir:—

I have examined the file of correspondence submitted by you to this office relative to the sale of Commercial Feeding Stuffs Inspection Stamps to J. Zimmern's Company at Mobile, Alabama.

It appears from this file and from the additional explanation made by you at the time the matter was submitted that by reason of the recent storms in this section this consignment of stamps became wet in transit, and by sticking and adhering to each other were rendered worthless to the consignor.

Under the provisions of Section 15 of Chapter 5452, Acts of 1905, you are, in my opinion, authorized to make a rule or regulation of the Department to the effect that Com-

mercial Feeding Stuffs Inspection Stamps may, under such conditions as attend this case, or similar cases, be returned and exchanged for other stamps that may be used by the purchaser.

Respectfully submitted,

T. F. WEST,
Attorney General.

BREAD WRAPPED IN PACKAGE FORM—PURE
FOOD LAW REQUIREMENTS.

Tallahassee, Fla., August 17, 1916.

*Hon. W. A. McRae, Commissioner of Agriculture,
Tallahassee, Florida.*

Dear Sir:—

I have your communication of August 15 submitting the following inquiry:

"We would be pleased to have your opinion as to whether or not under the third paragraph of Section 5, under the sub-head, 'in case of food' of Chapter 6122, as amended by Chapter 6541, Laws of Florida, Acts of 1911, a loaf of bread wrapped in wax paper would be considered food in package form within the meaning of the said Act and subject to marking in terms of net weight."

In reply I beg to advise that I am of the opinion that a loaf of bread, wrapped and sealed for sale and distribution among customers in the ordinary course of business, would be considered food in package form as defined in Chapter 6541, Acts of 1913 (See *State v. Swift & Co.*, 120 N. W. 1127).

Respectfully submitted,

T. F. WEST,
Attorney General.

Opinion to the State Board of Health.

AUTHORITY OF STATE HEALTH OFFICER AS "EXECUTICE OFFICER" OF STATE BOARD OF HEALTH.

Tallahassee, Fla., April 16, 1915.

Dr. Joseph Y. Porter,
State Health Officer,
Tallahassee, Florida.

Dear Sir:

Yours of the 14th inst. has been received. I note your inquiry, as follows:

"I have the honor to respectfully request that you will do me the favor to give me your legal and official opinion on the construction of so much of Section 1112 of the General Statutes of the State of Florida as relates to the duties of the State Health Officer, as the Executive Officer of said Board of Health.

"I believe I know the lexicon meaning of the term Executive Officer, but I should like to have you define what is the probable intent of the language as applied to the State Health Officer. In other words, what scope of authority the executive officer of any board or commission may exercise in the administrative functions of his office."

It is provided by the last paragraph of Section 1112 of the General Statutes that:

"The State Health Officer shall be the executive officer of the Board and secretary of the same, and shall hold the office for the term hereinafter specified unless removed by the Board for just cause."

The answer to your request, as I understand it, involves an inquiry as to the significance of the term "executive officer" as used in this statute, and the powers

conferred upon such officer by the use of the word "executive" as employed in the quoted paragraph of the statute.

An executive officer generally is defined as one in whom resides the power to execute the laws, or one whose duties are to cause the laws to be executed and obeyed.

In the light of this definition, I would say that the scope of authority of the executive officer of any board or commission in this State is to co-operate with such board or commission in seeing to it that the laws prescribing the powers and duties of such board or commission, and the valid regulations made and prescribed by such board or commission are enforced and executed.

In order to comply with your request, this reply has been hurriedly prepared and, therefore, has not been given the mature consideration that a subject of this character might properly deserve.

Respectfully,

T. F. WEST,

Attorney General.

STATE BOARD OF HEALTH—POLICY WHERE INADEQUACY OF FUNDS TO MEET REQUIREMENTS.

Tallahassee, Fla., July 14, 1915.

Dr. Joseph Y. Porter,

State Health Officer, Jacksonville, Fla.

My dear Sir:—

Yours of the 10th instant has been received and noted.

The substance of your inquiry, as I understand it, is stated in one paragraph of your letter, as follows:

"I have taken the liberty to enclose you a copy of a letter to the President of the Board; in fact, he requests me to do so, and to ask you for an opinion as to whether

the Board shall try to fulfil the law, in view of the difficulties of meeting the monetary obligations which must necessarily arise, and the inadequacy of the funds of the State Board of Health to meet this additional drain upon its resources."

This is a practical and not a legal question. The object and purpose of the statute, as you state, is a most admirable one, and if the funds available are not sufficient to carry on the work as the Board would like, I would say the proper course to pursue would be to carry it on with the funds available to the best possible advantage.

Respectfully,

T. F. WEST,
Attorney General.

STATE HEALTH OFFICER MAY NOT PROPERLY
BE MEMBER OF STATE BOARD OF HEALTH.

Tallahassee, Fla., August 30, 1915.

Dr. Joseph Y. Porter,
State Health Officer,
Jacksonville, Florida.

My dear Sir:

I have yours of August 27, and note the following:

"Will you kindly inform me whether, under the law, a member of the State Board of Health could not be selected and appointed by the Board as State Health Officer; provided, of course, that such an appointment could not be combined with a further selection as president of the Board in the same individual, for the reason that an official of the Board could or should not pass upon for approval his own expenditures. Section 1112 of the General Statutes (being Chapter 3839, Acts of 1889, Section 2), says:

"It shall be the duty of said Board at their first meeting to elect one of their number as president of said Board. At the same meeting it shall be the duty of said Board to designate and employ a physician, who shall be an expert in diagnosis of yellow fever, smallpox, cholera and other infectious diseases, etc., . . . which person shall be known as the State Health Officer.

"It will be noticed that the statute does not specify that the selection of the State Health Officer shall be from the membership of the Board; neither does it forbid the selection of State Health Officer from the membership of the Board; therefore, I take it that the Legislature was intentionally silent on this point, leaving the action and decision to the judgment and discretion of the Board.

"The Board being composed of three members, a majority could always abrogate any sanitary regulations ordered by the State Health Officer, as provided in Section 1125, General Statutes of Florida."

Holding the position of State Health Officer by a member of the State Board of Health is not expressly forbidden by statute, but, in view of the powers conferred and the duties imposed upon those occupying these positions and the compensation provided for each of them, we may well conclude, I think, that the law contemplates that the person appointed by the State Board of Health to the position of State Health Officer should not be a member of such Board.

Yours very truly,

T. F. WEST,
Attorney General.

Opinions to State Tax Commission.

EQUALIZATION OF ASSESSMENTS—RULE AS TO PERSONAL PROPERTY NOT RETURNED UN- DER OATH.

Tallahassee, Fla., Aug. 28, 1915.

Hon. John Neel, Chairman,

Hon. John S. Edwards and

Hon. R. J. Patterson,

Tax Commission, Tallahassee, Fla.

Gentlemen:—

Yours of the 27th inst. has been received.

I note your inquiry as follows:

“We will thank you for your official opinion construing Section 526, General Statutes, and its relation to Section 24, Chapter 5596, Laws of Florida, and Section 2, Chapter 5605, Laws of Florida, Acts of 1907.

“It appears that there is a possible conflict in these Sections. We wish to have you officially construe same, although the *intent* of the Legislature is apparent in Section 2 of Chapter 5605, amending said Section 526, General Statutes.

“Your prompt attention will be appreciated, as we will need this opinion in a few days.”

In considering this matter it is proper to note that Section 526 of the General Statutes was originally Section 26 of Chapter 4322 of the Acts of 1895. In the revision of the Statutes this section became Section 526 of the General Statutes.

In 1907 this section was amended by Chapter 5605, approved May 22, 1907. During the same session of the Legislature Chapter 5596 was enacted. This last mentioned chapter was approved June 1, 1907, ten days after the approval of the other chapter referred to.

Chapter 5596 covers the subject generally of the assess-

ment and collection of revenue, and was a general revision of the statutes of this State on this subject.

The rule of interpretation in a case of this kind is stated by one author as follows:

"Where, however, a later act covers the whole subject of earlier acts and embraces now provisions and plainly shows that it was intended not only as a substitute for the earlier acts, but to cover the whole subject then considered by the Legislature and to prescribe the only rules in respect thereto, it operates as a repeal of all former statutes relating to such subject matter, even if the former acts are not in all respects repugnant to the new act."

This rule is sustained by the great weight of authority and seems to cover the situation presented here.

In the case of *Lomay v. Walker*, 62 Ala. 39, the court said:

"It is an old and well defined rule of statutory construction that a subsequent statute revising the whole subject matter of a former one, and evidently intended as a substitute for it, although it contains no expressed words to that effect, must operate as a repeal of the former."

The Supreme Court of this State, in a recent case of *City of Jacksonville v. Bowden*, 64 So. 769, said:

"A statute may be in whole or in part repealed or superseded or abrogated by implication of law as the result of the due enactment of a subsequent statute covering the same subject."

Applying these rules to the question presented by your inquiry, it would seem that Section 24 of Chapter 5596 supersedes and takes the place of Section 26 of Chapter 4322, appearing now as Section 526 of the General Statutes as amended by Chapter 5605 of the Acts of 1907.*

Respectfully submitted,

T. F. WEST,

Attorney General.

*(See case of *Sparkman v. State ex rel Bank of Ybor City*, 71 Fla. 210, decided February 15, 1916, holding to same effect.)

TAX COMMISSIONERS—POWER TO ASSUME
COSTS AND MAKE SUPERSEDEAS BOND IN
TAX CASES.

Tallahassee, Fla., October 21, 1915.

*Messrs. John Neel, Chairman,
R. J. Patterson, John S. Edwards,
Members Tax Commission,
Capitol.*

Dear Sirs:

Yours of October 21 has been received. I note your inquiry as follows:

"The State Banks of Hillsborough County sued out alternative writs of mandamus against S. E. Sparkman, County Tax Assessor, to compel him to assess the personal property of the banks at the valuation as reduced by the Board of Commissioners on August 7th last; the County Commissioners having, on the 17th day of September rescinded their action in granting reduction.

"The case was argued by counsel before the Circuit Judge and he sustained the contention of the banks, and fixed \$200.00 in each of the eight cases as supersedeas bonds. The Assessor refused to appeal the case unless he was indemnified to secure costs. The Court later fixed the bond in the eight cases at \$30,000.00.

"Has the Tax Commission the right, not being parties to the suit, to officially assume the costs and make supersedeas bond instead of the Assessor? Your official opinion is requested."

Replying to your inquiry, I beg to advise that under the facts stated, your Commission, in my opinion, has no legal authority to officially indemnify the Tax Assessor against liability or loss on account of the costs in the case mentioned, nor to officially assume responsibility on account of the supersedeas bond required, if an appeal is taken in the case, in such a way as to bind your Commis-

sion or the State to pay such costs, if judgment should be entered against the Tax Assessor therefor, or to pay any sum that might be adjudged against you on account of your execution of such bond.

Yours very truly,

T. F. WEST,

Attorney General.

ASSESSMENT OF TAX ON PERSONAL PROPERTY—LOCATION.

Tallahassee, Fla., Aug. 21, 1916.

*Hon. R. J. Patterson, Tax Commissioner,
Tallahassee, Fla.*

Dear Sir:—

Replying to your verbal request of this date I will say that in my opinion the County Commissioners of St. Johns County would be fully warranted in leaving the assessment of the Flagler estate personal property on the tax books assessed upon the same basis of valuation as other personal property is assessed in the county.

I understand that it will be contended by the trustees of this property that it is not assessible in Florida, but from my understanding of the facts and without going into detail in regard to the matter, I think there is at least sufficient ground for holding that it is assessible here to warrant the board in assessing it and leaving the contention made by the trustees to be settled by the courts, which is the proper forum for settling questions of this kind.

Yours very truly,

T. F. WEST,

Attorney General.

Opinion to the State Board of Control.

STATE PLANT BOARD MAY NOT BE A "CORPORATE BODY."

Tallahassee, Fla., May 13, 1915.

Hon. P. K. Yonge,
Chairman Board of Control,
Pensacola, Florida.

Dear Mr. Yonge:

I am just in receipt of a letter from Hon. Frank E. Jennings, of Jacksonville, as follows:

"At a meeting of our Board of Control, here today, the question was raised as to whether or not our Board, while acting as a State Plant Board, is a corporate body, and as a State Plant Board retain its identity under the law creating the Board of Control. The part of the Act particularly in point would appear to be Section 3 of Senate Bill No. 4, which is the Florida Plant Act. Inasmuch as as no new board is created, I told Mr. Yonge that I was inclined to take the view that the proper construction would be that for the purposes of this particular Act we, as members of the Board of Control, acted as the State Plant Board (see lines 10 and 11 of Section 3), and that we continued as a corporate body. There might be some doubt about this matter.

"You can well appreciate the seriousness of the situation if the court should hold that we were acting as individuals only, and if you should so decide I am satisfied that Mr. Yonge would urge that the Act be amended this session, creating us a corporate body. He has requested me to write you for this opinion, and I would ask that you write him direct."

In compliance to his request, I am writing you a reply to this inquiry.

You will note that the Act referred to by Section 3

creates a "State Plant Board;" that this Board is composed of five members, who shall be the same persons who constitute the Board of Control. The State Plant Board, however, is not made by the Act a corporate body, and the fact that the members of the Board of Control are also members of the State Plant Board does not, in my opinion, have the effect of conferring upon this Board corporate powers and authority.

Yours very truly,

T. F. WEST,
Attorney General.

STATE PLANT BOARD — FISCAL YEAR FOR APPROPRIATION BEGINS UNDER CHAPTER 6885.

Tallahassee, Fla., Nov. 22, 1915.

1 Honorable P. K. Yonge,
Pensacola, Fla.

My dear Sir:—

I have yours of November 12th, submitting the following for my opinion:

"Referring to Section 20, Chapter 6885, Laws of Florida, the Plant Board would like to have your opinion as to when the year commences and ends for which the sum of \$35,000.00 for the period from April 30th, the date the Act was signed, to July 1st, and after that time can we spend \$35,000.00 per annum from July 1st to July 1st of each year, or shall we make our budget from April 30th to April 30th of each year?"

In reply, I beg to advise that the appropriation of \$35,000.00, as carried in Section 20 of Chapter 6885, Acts of 1915, for the eradication of crop pests in this State, is a continuing annual appropriation dating from April 30th, 1915, and that your budget of expenditures, based

on this appropriation, should be made from April 30th to April 30th each year thereafter.

Respectfully submitted,

T. F. WEST,
Attorney General.

AGRICULTURAL DEPARTMENT OF UNIVERSITY—
LITERARY QUALIFICATIONS FOR ADMIS-
SION TO.

Tallahassee, Fla., July 7, 1916.

Hon. P. K. Yonge,
Chairman State Board of Control,
Pensacola, Florida.

My Dear Sir:

I have your communication of June 17, which in substance submits the following inquiries:

1. Does the term "full course of instruction," used in Section 2 of Chapter 6873, Acts of 1915, refer to and mean the same as the words "full course of instruction" as used in the University catalogue?

2. Does Section 3 of Chapter 6873, Acts of 1915, require that all admissions to the Agricultural Department of the University of Florida be graduates of junior or senior high schools?

In reply to your inquiry No. 1, I beg to advise that the avowed purpose of Chapter 6873, Acts of 1915, was to stimulate the interest of our people in scientific agriculture and possibly contribute something to arouse them along modern lines of this most important industry. The term "full course of instruction" as used in Section 2 of the Act as above referred to would, of course, apply to the Agricultural Department specifically, though I know of no reason why young men taking this course, provided time and opportunity permitted, should not avail themselves of other courses offered by the University.

Replying to your second inquiry, will state that eligibility to admission to the University applies strictly to the Agricultural Department under this Act, and it seems to me that young men having graduated from junior or senior high schools would be all the better qualified, though I do not think it was intended to restrict eligibility to such graduates.

Yours very truly,

T. F. WEST,
Attorney General.

Opinions to State Road Department.

AUTOMOBILE LICENSE TAXES—PROPER DISPOSITION OF MONEYS UNDER CHAPTERS 6881 AND 6883, LAWS 1915.

Tallahassee, Fla., October 4, 1915.

*Hon. J. P. Clarkson, Acting Chief Clerk,
State Road Department, Tallahassee, Fla.*

My dear Sir:—

I have yours of October 2nd, submitting the following for my opinion:

“By direction of a majority of the members of the Florida State Roads Department I would respectfully call your attention to an apparent conflict in two Acts of the Legislature of 1915, affecting said Department, and request, that as Legal Adviser of the Department, as provided in section 7, Chapter 6883, Laws of Florida, you to submit to the Department, at its organization meeting to be held in Tallahassee on Friday, October 8, 1915, an opinion covering the sections of the two Acts which are apparently in conflict.

“Section 10, Chapter 6883 provides that ‘Fifteen per

cent of the amount of all county liceses collected upon automobiles, Automobile trucks and other motor driven vehicles shall hereafter be paid over to the State Treasurer to be kept in a general fund for the maintenance of the State Road Department, and the same shall be remitted to the State Treasurer as other tax monies are remitted.'

"Section 2, Chapter 6881, provides that 'All monies derived from the payment of such license tax shall be paid into the road and bridge funds of the several counties.'

"Chapter 6883 provides that the State Road Department shall furnish 'free' to the County Commissioners maps and plats of all roads and all data collected by the Department and shall furnish 'without expense to the county except the actual traveling expenses of the Highway Commissioner or assistant,' the services of such commissioner to render all assistance practical in the premises

"The value of the services rendered each county by the Department will be more than equal to the fifteen per cent of the license tax that is required to be paid over to the State Treasurer for the maintenance of the Department.

"The department trusts that you may be able to furnish an opinion in writing favorable to the provision in section 10, Chapter 6883, and submit same at the organization meeting of the department."

The rules of statutory construction in cases such as this are stated by the Supreme Court of this State in the case of *Curry v. Lehman*, 55 Fla. 847, as follows.

"Undoubtedly the general rule of statutory construction is that the intent of the lawmakers is to be found in the language that has been used, and the courts have no function of legislation, but simply seek to ascertain the will of the Legislature. If, however, from a view of the whole law, or from other yaws *in pori materia*, the evident intention is different from the literal import

of the terms employed to express it in a particular part of the law, that intention should prevail, for that, in fact, is the will of the legislature.

"It is to be presumed that different acts on the same subject passed at the same session of the Legislature are imbued by the same spirit and actuated by the same policy and they should be construed each in the light of the other. The legal presumption is that the Legislature did not intend to keep really contradictory enactments in the statute books, or to effect so important a measure as the repeal of a law without expressing an intention to do so. An interpretation leading to such a result should not be adopted unless it be inevitable. The rule of construction in such cases is that if courts can by any fair, strict or liberal construction find for the two provisions a reasonable field of operation, without destroying their evident intent and meaning, preserving the force of both, and construing them together in harmony with the whole course of legislation upon the subject, it is their duty to do so."

It is provided in the Act itself that Chapter 6881 shall take effect on October 1st, 1915. Chapter 6883 took effect, under the Constitution of this State, sixty days after the final adjournment of the session of the Legislature at which it was enacted. Chapter 6883 was approved June 2, 1915, and Chapter 6881 was approved June 4, 1915, but Chapter 6883, as we have seen, became effective, under the Constitution, before Chapter 6881 became a law under its express terms.

In view of this situation, and the settled rules of construction above quoted, my opinion is that there is no such conflict between the two provisions of the statutes quoted in your letter as that one should be held to effect the repeal of the other, and that both such statutes are in full force and effect.

To so hold gives life and effect to both statutes, whereas

to hold that section 2 of Chapter 6881 is repealed by the other statute would destroy this Chapter and, in my judgment, the Legislature intended no such thing.

"Intent is the spirit which gives life to a Legislative enactment."*

Respectfully submitted,

T. F. WEST,
Attorney General.

STATE ROAD COMMISSIONER—"TRAVELING
EXPENSES" DEFINED.

Tallahassee, Fla., May 26, 1916.

Honorable Wm. F. Cocke,
State Road Commissioner,
Tallahassee, Fla.

Dear Sir:—

I have your communication of May 25th, submitting the following inquiry:

"In Section 6, Chapter 6883, Laws of Florida—the Act creating this Department—it is provided:

"Section 6. In all cases where the County Commissioners of the several counties shall request the advice and assistance of the department in the construction and repair of roads, the department shall whenever practicable send the State Road Commissioner, or an assistant into such county and render all assistance practicable in the premises, without expense to the county except that the actual traveling expenses of the Highway Commissioner or assistant shall be paid by the county requesting such special service."

"The question now arises whether 'traveling expenses'

*(See State *ex rel.* Luning v. Johnson, 71 Fla. 363.)

referred to shall include only the actual transportation of the engineer to and from the special piece of work to be done in any particular county or whether they shall include railroad fare, livery bills and board of engineer while so engaged.

"I would thank you to give me your opinion as to the extent of the law upon this point."

In reply, I beg to advise that I am of the opinion that the words "actual traveling expenses," as quoted from the law above stated, were intended to embrace railroad fare, hotel bills, livery bills, or any other necessary expense incurred by the State Road Commissioner, or his assistants, in traveling to or from the various counties in this State and overseeing or superintending road work in such counties. respectfully submitted,

T. F. WEST,
Attorney General.

Opinions to State Hotel Commissioner.

HOTELS AND RESTAURANTS—ROOMS, WHEN COUNTED AS SUCH.

Tallahassee, Fla., September 24, 1916.

*Hon. A. L. Messer,
Hotel Commissioner,
Tallahassee, Florida.*

Dear Sir:

I have your communication of September 19th, submitting the following inquiry:

"I beg to ask that you advise me on Section Three (3) of Chapter 6952, Laws of Florida (relating to hotels, restaurants, and etc.), if in your judgment the parlor, dining-

room, office, sample-room, store-room and kitchen constitute a part of the five rooms that hotels, rooming-houses, and etc., have to bring them within the jurisdiction of this Department.

"There seems to be some difference of opinion by some of the attorneys in the State; some of them claim that any building used for the above purpose must have five sleeping-rooms for the accommodation of either transient or permanent guests in addition to the above-named rooms (dining-room, kitchen, sample-room, store-room, parlor, office).

"It was the intention of this bill when drafted that such above-named rooms (parlor, dining-room, and etc.), be counted as a part of the five rooms, for the reason they have to be inspected and reported on the same as sleeping-rooms."

In reply, I beg to advise that the subject-matter of your inquiry appears to be fully covered in paragraph 3 of Section 3 of Chapter 6952, Acts of 1915, which reads as follows:

"In all hotels within the meaning of this act the parlor, dining-room, kitchen and office, sample-rooms and store-rooms, shall be construed to mean the same as guest rooms, and in all rooming-houses the parlor and office, sample rooms and store rooms shall be construed to be guest rooms."

In view of the law as above quoted, I am of the opinion that the parlor, dining-room, office, sample-rooms, store-rooms and kitchen would be embraced in the five rooms as referred to in Chapter 6952, Acts of 1915, as above, and that such rooms would be properly counted in determining what should constitute a hotel or rooming-house under the provisions of the Act.

Respectfully submitted,

T. F. WEST,

Attorney General.

ROOMING HOUSES OPEN PORTION OF YEAR SUB-
JECT TO INSPECTOR'S LICENSE.

Tallahassee, Fla., October 28, 1915.

Hon. A. L. Messer,
Hotel Commissioner,
Tallahassee, Florida.

Dear Sir:—

I have yours of October 21st, submitting the following for my opinion:

“Would apartment houses, kept open for part of the year for guests, and where meals are not served, be subject to the license as required under Chapter 6952, Acts of 1915?”

In reply, I beg to advise that the matter contained in your inquiry is fully covered in paragraph 2 of section 3 of Chapter 6952, Acts of 1915, and reads as follows:

“Every building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are furnished for pay to transient or permanent guests, in which five or more rooms are used for the accommodation of such guests, but which does not maintain dining rooms or cafes in the same building or in buildings in connection therewith, shall, for the purposes of this Act, be deemed a Rooming House, and upon proper application, the Hotel Inspector shall issue to such above described business a license to conduct a rooming house.”

In view of this provision of the statute, it would seem that the houses conducted as described in your inquiry should be required to pay the tax imposed by the statute mentioned.

Respectfully submitted,

T. F. WEST,
Attorney General.

CLUBS SERVING MEALS NOT SUBJECT TO INSPECTOR'S LICENSE.

Tallahassee, Fla., November 17, 1915.

*Hon. A. L. Messer,
Hotel Commissioner,
Tallahassee, Florida.*

Dear Sir:

Yours of the 6th inst. has been received. I note your inquiry, as follows:

"There seems to be some question as to where clubs serving meals to their members only, or to the invited guests of their members, being liable to inspector's license.

"Will you please advise me if such places are subject to to inspector's license the same as other restaurants."

In reply, I beg to advise that I do not find anything in the statute on the subject making it applicable to clubs conducted as described in your letter.

Respectfully submitted,

T. F. WEST,
Attorney General.

MISCELLANEOUS OPINIONS.

DELINQUENT CHILDREN—AUTHORITY OF JUDGE TO MODIFY OR CHANGE SENTENCE.

Tallahassee, Fla., Dec. 30, 1915.

*Hon. J. L. Boone, Superintendent,
Marianna, Fla.*

Dear Sir:—

I have yours of December 25th, together with communication from Honorable J. C. Lanier, submitting the following inquiry.

"I am enclosing you herewith letter from Mr. J. C. Lanier, Probation Officer of Jacksonville, which claims that the law provides that the judge may set aside, modify or change any order made in any case at his discretion. I am under the impression that there was a law passed at the last session of the Legislature, making it necessary for a boy, when committed to this institution, to remain here until he is twenty-one years old, or until he is paroled by the Board of Commissioners of State Institutions.

"Please advise me at your earliest convenience, stating whether I should accept boys whose commitments provide that they can be recalled by the judge, regardless of whether he has made a good record or a bad one."

In reply, I beg to advise that section 8 of Chapter 6216, Acts of 1911, which applies only to dependent and delinquent children, seems to authorize the County Judge to set aside, change, modify or suspend sentence at his discretion. These are the only instances, however, in which this rule applies.

Section 9 of Chapter 6840, Acts of 1915, prescribes the conditions under which sentence shall be passed in all other cases of commitment to the Industrial School, and reads as follows:

"Sec. 9. The term of commitment to said institutions shall be indeterminate, dependent upon good conduct and moral improvement and advancement; and the Board shall make just, but liberal, provisions whereby continued excellent deportment shall entitle the inmates to conditional parole and final dismissal, and such other rules and regulations pertaining to management and discipline, as it shall deem just. The Superintendent shall make monthly reports to the Board of State Institutions, furnishing such information as shall be required."

I am

Yours very truly,

T. F. WEST,
Attorney General.

COMPULSORY SCHOOL ATTENDANCE—NUMBER
OF NAMES REQUIRED TO CALL ELECTION.

Tallahassee, Fla., June 26, 1916.

*Hon. J. C. Privett,
State Labor Inspector,
Jacksonville, Florida.*

My Dear Sir:

I have your communication of June 24th, submitting the following inquiry:

"I have been requested to ask your opinion as to what construction you place on the word 'registered' in line 1, Section 1, of Chapter 6831, Acts of 1915, the Compulsory School Attendance Law.

"In Duval County the books show 13,500 registered, about 9,000 qualified. Included in the 13,500 are 700 colored voters, which will have to be eliminated, as the law says that one-fourth of the registered *white* voters must sign the petition.

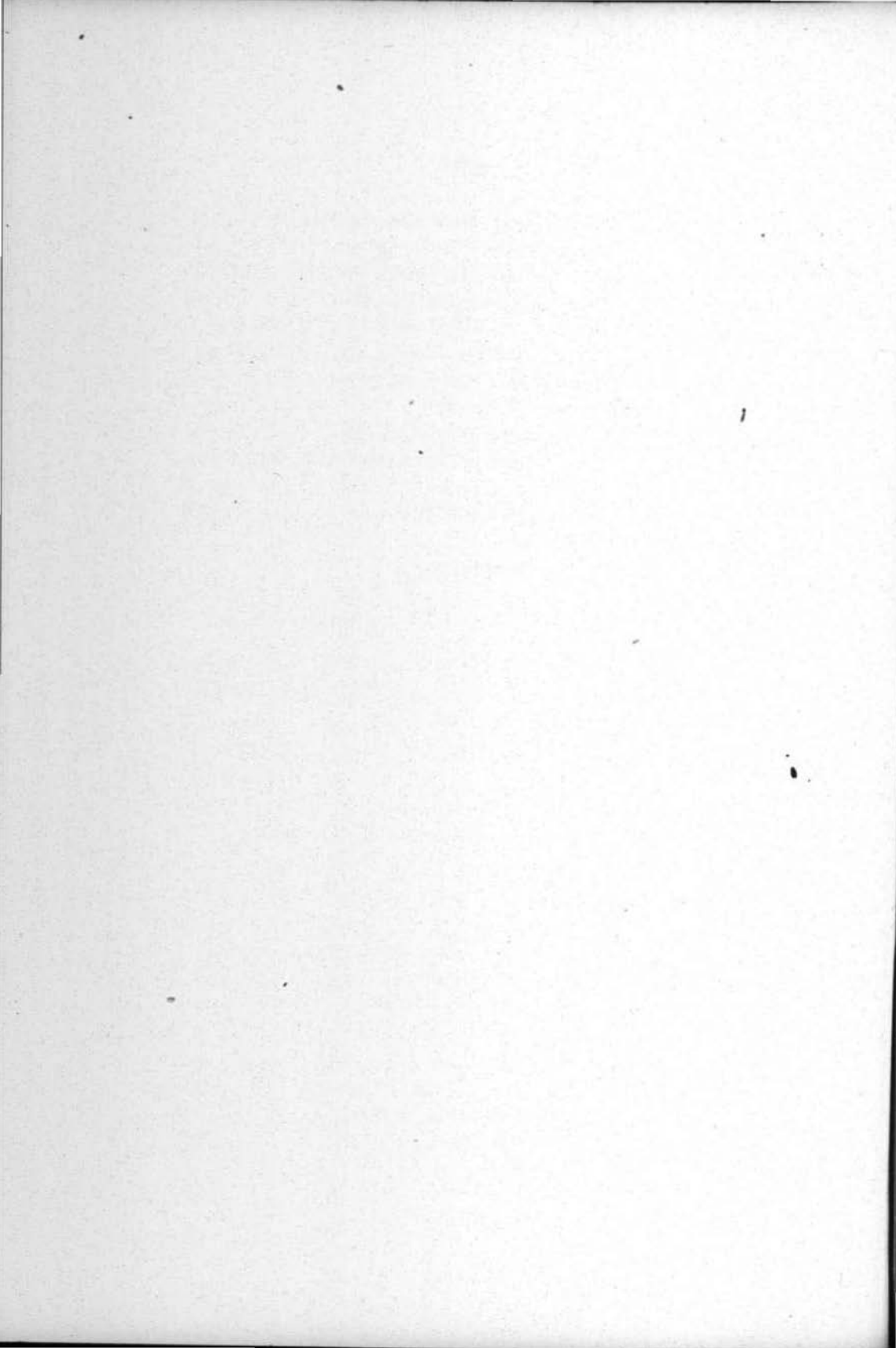
. "Using the above figures, how many voters will be required to sign the petition."

In reply, I beg to advise that as per figures stated in your letter it appears that you have approximately 12,800 registered white voters. To be absolutely safe in the matter of your petition, I would suggest that you get one-fourth of this number, or 3,200, signatures before presenting the same to the Board.

By proceeding as above outlined, there could be no question as to the legality of your petition; and should you stop by securing one-fourth of 9,000, which is your qualified registration, there would always be some ground to question its legality.

Yours very truly,

T. F. WEST,
Attorney General.



**LETTERS TRANSMITTING AMOUNTS COL-
LECTED ON ACCOUNT OF COSTS AND
ATTORNEYS' FEES.**

Tallahassee, Fla., December 20, 1916.

*Honorable J. C. Luning, State Treasurer,
Capitol.*

Dear Sir:—

Herewith I am handing you check for \$80.00 payable to you as State Treasurer.

This is for moneys paid to me as attorney fees by the losing parties in four cases in the Supreme Court of the United States in which the State, or its representatives, was the successful party, and, while it was not paid to me officially and would have been paid to any other attorney representing the successful party, it was received as a result of my appearing as counsel in the case and should, therefore, in my opinion, be paid into the State treasury.

There appears from the records of this office to be no precedent for handling moneys coming to any of my predecessors in this way, but it would, perhaps, be proper to credit it to the general fund of the State Treasury.

I will thank you to acknowledge receipt of the check.

Very respectfully,

T. F. WEST,
Attorney General.

Tallahassee, Fla., December 20, 1916.

*Honorable J. C. Luning, State Treasurer,
Capitol,*

Dear Sir:—

Herewith I am handing you my check for \$143.50 payable to you as State Treasurer.

This is for moneys paid to me on account of costs as a

result of the State's success in the case of Van Deman and Lewis Company et al. v. Rast, Tax Collector, et al., commonly called the Coupon or Trading Stamp Case, in the Supreme Court of the United States.

This amount is not fees paid to the Attorney General nor moneys paid to me because of the fact that I represented the successful parties, and there seems to be no statute directing what disposition shall be made of it.

There appears from the records of this office to be no precedent for handling moneys coming to any of my predecessors in this way, but it would, perhaps, be proper to credit it to the general fund of the State Treasurer.

I will thank you to acknowledge receipt of the check.

Very respectfully,

T. F. WEST,
Attorney General.

UNOFFICIAL LETTERS OF THE ATTORNEY GENERAL.

The following are a few of the unofficial communications such as may be of general interest to county officers and the public:

ELIGIBILITY OF LEGISLATOR DETERMINED BY EACH HOUSE.

Tallahassee, Fla., January 15, 1915.

Dear Sir:

Yours of the 13th inst. has been received and noted.

It is, as you know, provided by Section 6 of Article III of the Constitution that:

"Each house shall judge of the qualifications, elections and returns of its own members."

This being true, it seems to me hardly proper that I undertake to pass upon the eligibility of one who has been duly elected to the Legislature of the State of Florida; and an expression from me, in reply to your communication, would be in no sense official or binding upon anyone.

It might be that the Governor would take some action if his attention is called to the matter.

With kind personal regards, I am, Yours very truly,

T. F. WEST,
Attorney General.

EQUALIZATION OF ASSESSMENT — FAILURE OF
TAX PAYER TO PROTEST.

Tallahassee, Fla., Feb. 18, 1915.

My dear Sir:—

Yours of the 16th inst. has been received and noted.

If you did not appear before the Board of County Commissioners at their meeting held in July or August of the year mentioned, for the purpose of receiving testimony as to the value of any property, real or personal, as fixed by the County Assessor of Taxes, and perfecting, reviewing and equalizing the assessment, it is doubtful now if you have any remedy against the valuation placed upon your property, provided of course notice of such meetings was given as required by section 23 of Chapter 5596, the statute covering the subject. Or if you did not make return of your property as required by section 16 of the statute mentioned, you would not be in position to question the valuation placed upon your property by the Assessor.

It does not sufficiently appear in your letter whether you did either of these things for me to be able to advise you on the subject. In order that you may see just what the statute is, I am forwarding to you under separate cover compilation of the laws for the assessment and collection of revenue, in which is embodied the chapter referred to herein.

The safe course for you to pursue will be to confer with an attorney there in whom you have confidence, and to whom you may explain the situation in detail, and get him to advise you. Advice from one who is familiar with all the details of the matter will be worth more to you than any suggestion that I might make.

Yours very truly,

T. F. WEST,

Attorney General.

AUTHORITY OF ONE PERSON TO PAY THE POLL
TAX OF ANOTHER.

Tallahassee, Fla., March 19, 1915.

My dear Sir:

Yours of the 17th inst. has been received and noted.

The statute on the subject is Section 1 of Chapter 5928, Acts of 1909, as follows:

"It is hereby made unlawful for any person or corporation in this State to pay the poll tax for any other person, or furnish the money to any other person for the purpose of paying such other or any other person's poll tax; or for any Tax Collector to accept the payment of poll taxes from any person than the person whose poll tax is being paid, except that one person may pay the poll tax of another provided the person paying such poll tax shall at the same time pay a tax duly assessed on property belonging to the person whose poll tax is being paid."

The purpose and effect of this statute is, I think, to forbid one person's paying the poll taxes of another, or to furnish the money for the purpose of paying such other person's poll taxes. It also forbids the Tax Collector accepting the payment of poll taxes from a person other than the one whose poll taxes are paid, except in cases where the property tax is also paid by him who pays the poll tax.

Yours very truly,

T. F. WEST,
Attorney General.

QUALIFIED DELECTORS WHO ARE FREEHOLD-
ERS ARE QUALIFIED TO VOTE IN BOND ELEC-
TIONS FOR SPECIAL TAX SCHOOL DISTRICT.

Tallahassee, Fla., May 3, 1915.

My dear Sir:

Yours of the 29th ult. has been received. I note your inquiry, as follows:

"We are soon to vote in our Special Tax School, of Sneads, Florida, upon whether or not we will issue bonds. The question has arisen as to what voters are qualified to vote in this bond election. Will you kindly give me this information and you will greatly oblige myself and those desiring to track the law."

Replying to the same, will say that the constitutional provision authorizing the issuance of bonds by Special Tax School Districts is a portion of Section 17 of Article XII of the Constitution of the State, proposed as an amendment to the Constitution at the session of the Legislature of 1911, and is in the following language:

"The Legislature may provide for Special Tax School Districts to issue bonds for the exclusive use of public free schools within any such Special Tax School District, whenever a majority of the qualified electors thereof, who are freeholders, shall vote in favor of the issuance of such bonds."

It will be noted that only qualified electors who are freeholders are entitled to vote at such elections.

A qualified elector is, of course, one who has registered as an elector and paid his poll taxes, as required by law; and a freeholder is defined as one who owns land in fee, or for life, or for some indeterminate period.

Yours very truly,

T. F. WEST,
Attorney General.

ASSESSOR AND COLLECTOR OF TAXES NOT PAID
FROM SCHOOL FUND.

Tallahassee, Fla., May 7, 1915.

My dear Sir:—

Your letter of the 4th inst. has been received, in which you state that the Board of County Commissioners and the School board have refused to pay the Tax Collector and Tax Assessor for assessing and collecting the general school fund tax, and ask advice as to whose duty it is to pay them for their services.

Replying to the above inquiry beg to advise that in my judgment the Tax Collector and Tax Assessor cannot be paid from the general school fund, under section 15 of article 12 of the Constitution of Florida, since they are not school officers within the contemplation of said section.

It has been the holding of this office for some time that they should be paid from the general funds of the county.

Yours very truly,

T. F. WEST,

Attorney General.

UNLAWFUL MARRIAGE—UNCLE AND NIECE.

Tallahassee, Fla., June 7, 1915.

My dear Sir:—

Yours of the 31st ultimo has been received.

I note your inquiry, as follows:

“Is it lawful in the State of Florida to marry one's niece—a brother's daughter?”

The statute on the subject mentioned is section 3525 of the General Statutes of 1906, as follows:

“A man may not marry any woman to whom he is re-

lated by lineal consanguinity, nor his sister, nor his aunt, nor his niece. A woman may not marry any man to whom she is related by lineal consanguinity, nor her brother, nor her uncle, nor her nephew."

Yours very truly,

T. F. WEST,

Attorney General.

INTEREST ON WARRANTS DRAWN ON FINE AND
FORFEITURE FUND—NOT ON WITNESS' CER-
TIFICATES.

Tallahassee, Fla., June 14, 1915.

My dear Sir:

Yours of the 11th instant has been received and noted.

Warrants drawn upon the fine and forfeiture fund under the provisions of section 973 of the General Statutes, in my judgment, bear interest from the date of the registration of such warrants as provided for in the statute.

It would seem, however, that witness certificates issued under the provisions of section 964 of the General Statutes, upon the fine and forfeiture fund do not bear interest, as the statute does not provide for interest on such certificates.

Yours very truly,

T. F. WEST,

Attorney General.

COUNTY CONVICTS ENTITLED TO RECEIVE
TRANSPORTATION AND STIPULATED SUM
UPON BEING DISCHARGED.

Tallahassee, Fla., June 14, 1915.

My dear Sir:—

Yours of the 12th instant has been received.

I note your inquiry, as follows:

"Will you advise me at once, if it is mandatory on the Board of County Commissioners to pay the County Convict the \$3.00 and \$5.00 discharge fees provided to be paid, as well as their railroad fare, where they are working them on the public roads of the county, instead of leasing them out."

The statute on the subject is 5963, Acts of 1909. The last two paragraphs of the section of the statute amended in this Chapter, is as follows:

"It shall be the duty of all Boards of County Commissioners hiring out convicts for work to make provision for each convict so leased or hired out, to receive upon being discharged, transportation back to the place from which he was sentenced, or its equivalent in money for such purpose, and in addition the sum of three dollars (\$3.00) when his sentence is for a less period than four months, and for all prisoners whose term of sentence shall be more than four months, the sum of five dollars (\$5.00), the same to be paid out of the hire derived from the lease of said convicts."

"And when the County Commissioners work their prisoners on the public works of the county the same amounts shall be paid to the prisoners discharged from said works out of the fine and forfeiture fund of the county, the same as is above provided when the convicts are leased."

It appears clear from the last paragraph quoted that it

is mandatory on the Board of County Commissioners to pay each county convict, upon his being discharged, the amount stated when they are being worked on the public roads of the county, instead of being leased out.

Yours very truly,

T. F. WEST,

Attorney General.

**SHERIFF INELIGIBLE TO HOLD OFFICE OF
GAME WARDEN.**

Tallahassee, Fla., July 1, 1915.

My dear Sir:—

Yours of the 26th ultimo has been received and noted.

It is provided by Section 15 of Article XVI of the Constitution that no person shall hold or perform the functions of more than one office under the government of this State at the same time, and while it is not entirely clear that the position of County Game Warden is an office in the sense in which the term is used in the Constitution, the safe course to pursue, I think, is for some one other than the sheriff to be selected for this position.

It is provided by the statute that the Board of County Commissioners shall employ a fit and competent person, resident of the county, as County Game Warden, who shall hold the position, unless sooner removed for cause, until Tuesday after the first Monday in January, 1917, and the Board of County Commissioners is authorized to fix the salary to be paid such Game Warden. It is further provided that the Board of County Commissioners shall at their regular meeting to be held in November, 1916, and every two years thereafter, employ such a person for such County Game Warden as shall have been recommended by nomination in the preceding primary election, the term of such employment to begin on the Tuesday

after the first Monday in January, 1917, and all Game Wardens so employed shall hold office for the term of two years, unless sooner removed for cause, or until their successors are qualified. The County Game Wardens are also required to give bond, payable to the Governor of the State, such bonds to be approved as are the official bonds of county officers and conditioned upon the faithful performance of the duties imposed upon them by law. They are also required to take the oath required of officers required by the Constitution of the State.

In view of all these provisions, I think the safe course to pursue is to select some one other than the sheriff of the county for this position.

If it should be held that the holding of this office is inconsistent with the holding of the office of sheriff of the county, it might also be held that accepting this office vacates the office of sheriff, and I assume that you would hardly like to be embarrassed by having this question raised and probably tested out in the courts.

Yours very truly,

T. F. WEST,

Attorney General.

GENERAL ROAD LAW—CONSTITUTIONALITY AS TO COMPULSORY SERVICE.

Tallahassee, Fla., July 8, 1915.

My dear Sir:—

Yours of the 5th instant has been received and noted.

The general road law existing prior to the statute on this subject passed at the recent session of the Legislature had not, to my knowledge, been held unconstitutional. It is possible that it may have been so held by some court, but the Supreme Court of the State, in the case of Butler

v. Perry, 67 Fla. 405, held the act valid. You can examine this decision in the office of the County Judge of your county.

If this office can be of any further service to you at any time, it will be cheerfully rendered.

Yours very truly,

T. F. WEST,
Attorney General.

SHERIFF NOT AUTHORIZED TO CHARGE MILE-
AGE FROM COURT HOUSE TO ATTEND JUSTICE'S COURT IN THE RESPECTIVE DISTRICTS.

Tallahassee, Fla., July 12, 1915.

My dear sir:—

Yours of the 10th instant has been received and noted.

There is no statute that I recall which would authorize the charge by the sheriff of mileage from the court house to points in the county to attend court held by Justices of the Peace of the several Districts of the county.

Yours very truly,

T. F. WEST,
Attorney General.

SPECIAL OR LOCAL LAW PROHIBITING CANVASSING ON RAILWAY TRAINS—VALIDITY.

Tallahassee, Fla., July 13, 1915.

My dear Sir:—

Your letter of the 8th instant, addressed to Mr. A. L. Messer, Hotel Commissioner, has been referred to this office for reply.

You inquire whether or not the statute passed at the

last session of the legislature entitled "An Act to prohibit canvassing and soliciting on railway trains in the county of St. Johns," etc., is constitutional.

The Attorney General is not authorized to officially pass upon the question and, therefore, no expression from this office can be regarded as an official opinion on the subject, and what is said in this letter represents only my personal views.

The rule for testing the constitutional validity of a statute is expressed by the Supreme Court of the State in the case of *City of Jacksonville vs. Bowden*, 67 Fla. 181, as follows:

"The lawmaking power of the Legislature of a State is subject only to the limitations provided in the State and Federal Constitutions; and no duly enacted statute should be judicially declared to be inoperative on the ground that it violates organic law, unless it clearly appears beyond all reasonable doubt that under any rational view that may be taken of the statute, it is in positive conflict with some identified or designated provision of constitutional law."

There is no suggestion in your letter as to the theory upon which the statute may be unconstitutional, nor is the provision of the Constitution with which it may be in conflict pointed out.

In case of *Williams vs. State of Arkansas*, 217 U. S. 79, the Supreme Court of the United States held the anti-drumming law of Arkansas constitutional and valid, and in doing so quoted with approval the following language from the Supreme Court of the State of Arkansas in the same case:

"The legislature clearly has the power to make regulation for the convenience and comfort of travelers on railroads, and this appears to be a reasonable regulation for their benefit. It prevents annoyance from the importunities of drummers. It is suggested in argument that the statute was especially aimed at the protection of travel-

ers to the city of Hot Springs. If this be so, we can readily see additional reason why the regulation is a wholesome one. A large percentage of those travelers are persons from distant States, who are mostly complete strangers here, and many are sick. Drummers who swarm through the trains soliciting for physicians, bath houses, hotels, etc., make existence a burden to those who are subjected to their repeated solicitations. It is true that the traveler may turn a deaf ear to these importunities, but this does not render it any the less unpleasant and annoying. The drummer may keep within the law against disorderly conduct, and still render himself a source of annoyance to travelers by his much beseeching to be allowed to lead the way to a doctor or a hotel."

The difference between the statute of Arkansas and the statute involved here is that the statute of this State is a special or local law, whereas the Arkansas statute is a general law. The penalty, however, is general and in such a form as has been frequently upheld by the Supreme Court of this State.

The same principle was involved in the case of *Stinson vs. State*, 63 Fla. 42, in which case the Supreme Court said:

"The Legislature may enact special or local laws within its discretion for the protection of fish or game in this State, and by valid general laws may prescribe punishments and penalties for violations of the special or local laws."

In view of the foregoing authorities, I would assume the statute referred to to be valid and enforceable until some court of competent jurisdiction had declared it to be otherwise.

The cases which I have referred to can be examined in the office of any of the lawyers of your county.

Yours very truly,

T. F. WEST,
Attorney General.

COUNTY COMMISSIONERS MAY NOT LAWFULLY
BORROW MONEY ON WARRANT FOR ROAD
AND BIDGE REPAIR.

Tallahassee, Fla., July 21, 1915.

My dear Sir:—

Yours of the 16th instant has been received.

I note your inquiry, as follows:

- "There is quite a large deficit in the road fund of our county and the emergencies are being created every day as in a part of this county the ground is very low and is subject to floods and the roads and bridges need special attention to prevent destruction and waste. The county can very readily borrow the money from the banks if not prohibited by existing statutes.

"I desire to ask you this question. Can a Board of County Commissioners deliver a warrant for any amount of money to a bank, the said warrant to be dated at the present date with a private understanding with the bank that it shall not be presented before a later date and interest added to the warrant to the date of presentation and in doing so is that in violation of existing law? Please advise us immediately as to the best course to pursue in the matter, as we will be compelled to have money for road purposes."

A somewhat similar question was considered by the Supreme Court of this State in the case of National Bank of Jacksonville vs. Duval County, 45 Fla. 496. You can examine this case in the office of the County Judge and ascertain from it just what power the Board of County Commissioners have to issue interest bearing warrants or to pay interest on warrants which are not presented for payment but are held by agreement for a definite period of time.

It may be that the best course to pursue to take care

of the roads in the portion of the county referred to would be to proceed under Chapter 6208, Acts of 1911, and issue warrants or bonds as therein provided for. This, of course, is only by way of a suggestion in order that you may consider the question.

The matter of taking care of the current work and a deficit incurred for past work is rather a difficult problem, when the millage is fixed by statute.

Yours very truly,

T. F. WEST,
Attorney General.

LAST DATE ON WHICH POLL TAX MAY BE PAID
TO QUALIFY ELECTORS.

Tallahassee, Fla., August 17, 1915.

My dear Sir:

I have yours of August 14, and note the following inquiry:

"Opinions vary here as to the last day on which poll taxes should be paid to entitle the taxpayer to vote. Some hold that the tax should be paid on or before the second Saturday of the month preceding the month in which the election is held, while some are of the opinion that the tax can be paid up to and including the second Saturday of the month in which the election is held.

"For instance, if an election is advertised for the 31st day of August, can poll taxes be paid up to and including the second Saturday of August, or should payments cease with the second Saturday in July in order for the taxpayer be entitled to vote, other qualifications having been observed?"

In reply, beg to advise that Section 202 of the General Statutes provides that all persons subject thereto must

have paid their poll taxes on or before the second Saturday of the month immediately preceding the day of the election to entitle them to vote. This rule applies to general and special elections and must include all poll or capitation taxes for the two years immediately preceding the year in which the election is held.

This statute has been construed as if it read "the second Saturday of the month immediately preceding the month in which the election is held." That is to say, that if the election is advertised to be held at any time during the month of August, the required poll or capitation tax must be paid on or before the second Saturday in July.

The Attorney General is not authorized to officially advise in matters of this kind. This letter is merely to assist you in arriving at a proper conclusion in the premises, which I shall take pleasure in doing at any time.

Yours very truly,

T. F. WEST,

Attorney General.

OFFICES—PERSON MAY BE MAYOR AND A JUSTICE OF THE PEACE.

Tallahassee, Fla., August 18, 1915.

My dear Sir.

Yours of the 16th inst. has been received. I note your inquiry, as follows:

"I have been requested to ascertain whether or not a Justice of the Peace can hold the office of Mayor of an incorporated town, both offices at the same time. Will you please give us the desired information, and oblige?"

Replying to the same, will say that there is nothing in

the laws of this State forbidding a person to hold the offices of Justice of the Peace and Mayor of an incorporated town at the same time.

If there is nothing in the ordinances of the town which you have in mind which would affect this situation, there is no legal reason why one person can not hold the two positions at the same time.

Yours very truly,

T. F. WEST,

Attorney General.

COUNTY TREASURER—NOT ENTITLED TO COMMISSIONS FOR HANDLING BORROWED OR BOND MONEY USED FOR SCHOOL PURPOSES.

Tallahassee, Fla., August 23, 1915.

My dear Sir:

Yours of the 21st inst. has been received. I note your inquiry, as follows:

"Please advise if it is legal for County Treasurers to collect a commission for receiving borrowed school funds turned over to him by the Board of Public Instruction."

It has been the holding of this office for a long time that a County Treasurer is not entitled to a commission for receiving and disbursing money borrowed by a Board of Public Instruction for the county school fund.

An Act was passed at the last session of the Legislature providing that: .

"No fees shall be allowed or paid to County Treasurers for receiving or disbursing moneys borrowed for school purposes, including all such moneys as may be received .

and held for bonds sold under the provisions of Chapter 6542, Acts of 1913, Laws of Florida, or any amendments thereto."

This Act is Chapter 6929, Acts of 1915, and you can read the same in the office of the County Judge or Clerk of the Circuit Court of your county.

Yours very truly,

T. F. WEST,

Attorney General

FISHERMAN'S LICENSE—USING ONLY HOOK
AND LINE.

Tallahassee, Fla., September 21, 1915.

My dear Sir:

I have yours of September 9, submitting the following for my opinion:

"In the matter of the Fish Bill which passed the 1915 session of the Legislature, it was my understanding that nothing therein applied to fishermen who make their living by catching fish with hooks and line; in fact, Senator Fogarty, Hon. Clarence E. Roberts, and, I believe, Commissioner Hodges himself, were of the same opinion. It would seem that the fishermen around here have been advised to procure a license, as they are not in any way exempt from taxation under said Act.

"The language as contained in Section 14, page 12, of paragraph 12, would appear to relieve from taxation these fishermen who use hook and line merely, and in order to satisfy myself and to advise others intelligently in the matter, I would very much appreciate an expression from your office."

In reply, I beg to advise that you will find the matter

of your inquiry covered in the final paragraph of Section 14, Chapter 6877, Acts of 1915.

From the contents of this paragraph, I would say that persons fishing only with hook and line, rod or reel, would not be required to procure a license.

With kind personal regards,

Yours very truly,

T. F. WEST,

Attorney General.

PROCEEDS OF SPECIAL TAX SCHOOL DISTRICT
BONDS EXPENDED BY SCHOOL BOARD.

Tallahassee, Fla., Sept. 30, 1915.

My dear Sir:—

Yours of the 25th instant has been received and noted.

My understanding of the statute mentioned is that the fund derived from the sale of bonds issued by Special Tax School Districts shall be held and expended by the Board of Public Instruction of the county in which the district is located.

Yours very truly,

T. F. WEST,

Attorney General.

EACH PHYSICIAN IN A PARTNERSHIP LIABLE
FOR LICENSE TAX.

Tallahassee, Fla., October 4, 1915.

Gentlemen:—

Yours of the 2nd instant has been received and noted. I think it necessary, under our statutes, that each phy-

sician practicing his profession in this State, although he may be in partnership with another physician, should pay the license tax imposed by statute upon this profession.

In the case of *Blanchard v. State ex rel.*, 30 Fla. 223, 11 South. Rep. 785, the Supreme Court held that each member of a firm of lawyers should pay the license tax imposed, and it would seem that the same rule would apply.

Yours very truly,
T. F. WEST,
Attorney General.

LICENSE TAXES—EACH PLACE OF BUSINESS.

Tallahassee, Fla., October 7, 1915.

Dear Sir:—

Yours of the 6th inst. has been received and noted.

I would say that a merchant operating a store in one place and a meat market in another would be required to pay the license imposed by statute on each of such places of business.

Yours very truly,
T. F. WEST,
Attorney General.

NO AUTHORITY FOR PAYMENT OF STENOGRAPHER'S FEES ACTING FOR GRAND JURY.

Tallahassee, Fla., October 7, 1915.

Dear Judge:—

Yours of the 30th ultimo has been received and noted. There is no statute that I know of authorizing the pay-

ment of the fees or charges of a stenographer or court reporter for taking the testimony of witnesses before a grand jury in this State.

It has been suggested in the Legislature several times that this authority should be granted, and that authority should also be given for paying reporters for taking testimony in homicide cases before committing magistrates, and I think a bill was at one time introduced to this effect, but failed to pass.

This office is not authorized to officially pass upon a matter of this kind.

With kind personal regards and best wishes, I am,

Yours very truly,

T. F. WEST,

Attorney General.

**SPECIAL TAX SCHOOL DISTRICTS, PROPOSING
TO ISSUE BONDS, MUST BE SHOWN TO HAVE
BEEN PROPERLY CONSTITUTED BY THE
RECORDS.**

Tallahassee, Fla., October 8, 1915.

My dear Sir:

Referring further to yours of the 1st inst., in reference to the \$20,000 bonds of Special Tax School District No. 10, Bowling Green, DeSoto County, I beg to advise that the transcript of the record has been received at this office, but is not in condition to be finally passed on. Before this office can pass favorably upon this bond issue, it will be necessary that it be made to appear that a valid district exists; that is to say, that the district proposed to issue the bonds was created as required by law.

Special Tax School Districts are created, as you know, upon petition of one-fourth of the qualified electors who pay a tax on real or personal property residing within

the territory forming the district. When this petition is filed, and after the Board has ascertained that it is in order and signed by the requisite number of qualified petitioners, it should be published once a week for four successive weeks in some newspaper published in the county and having a general circulation throughout the county (Section 401, General Statutes, 1906). Your transcript should show by affidavit that this petition was duly published.

When publication of this petition has been made as required by this statute, and proof of the publication filed, the Board, if it considers the petition favorably, should pass a resolution reciting the fact and calling the election. Notice of this election is required to be given by publication once a week for four weeks prior thereto in a newspaper published in the county and having a general circulation throughout the county (Section 402, General Statutes, 1906). Then proof of publication of this notice should also be made and filed with the Board. The Board also is required to select inspectors and clerk for such election and the returns made by the inspectors are filed with the Board and canvassed by it.

The same proceedings, both as to the creation and change of the boundaries of the district in question, should be set out and proven as above.

The petition, resolution and notice of publication, proof of publication of the petition, proof of publication of the notice of election, returns of inspectors and clerk, result of canvass and publication of result of the election by the Board, should be made a part of the minutes of the Board, both as to the creation and change of the boundaries of the district. It is very essential that the petition should be recorded in both instances, because no action can be taken except upon the petition filed as required by the statute, and the boundaries of the district proposed to be created are required to be set out in the petition.

All of this is, of course, familiar to you, but before

passing upon the bond issue referred to it will be necessary that I have a certified copy of the minutes of your Board showing the action taken in these several matters, since it is necessary that your minutes show that the necessary action was taken to create a valid district, one in which the payment of the tax imposed upon the property within the district may be enforced by law, if necessary.

The money to be invested by the State Board is the property of the State School Fund. This fund is made sacred and inviolate by the State Constitution. The question of the value of the bonds issued by school districts and offered to the State Board for sale is passed upon by the Board. This office is required to pass upon the question of the validity of such bonds. Before I can say that a bond is a valid obligation, I must find that there is in existence a valid obligor. In other words, it must be made to appear that a valid district is in existence.

To do this, the record must show that the County Board took every step necessary and did everything required by statute to be done in the creation of the district. If the minutes of your Board do not show the district to have been duly created by statute, I can not say that the bonds issued by it are valid bonds and a safe investment for the State School Fund, for the very good reason that, if the district was not legally created, you may not be able to enforce payment of the district tax, in which case the bonds would be of little value.

I have written you somewhat at length in order that you may understand the policy of the office on this subject.

Yours very truly,

T. F. WEST,

Attorney General.

COUNTY SUPERINTENDENT—SALARY BASED ON
ANNUAL RECEIPTS.

Tallahassee, Fla., October 18, 1915.

Dear Sir:

Yours of the 15th instant has been received and noted.

Under the provisions of Chapter 5658, Acts of 1907, Laws of Florida, the same being an act to regulate the salaries of County Superintendents of Public Instruction, it is provided that the salaries of County Superintendents of Public Instruction shall be *based upon the total annual receipts of each county for school purposes, including special school district taxes, etc.*

It will be noted that the salary is based upon the total annual receipts of each county for school purposes, and, in my judgment, the amount of cash in this fund brought over from one year into another cannot be regarded as a portion of the receipts for that year in contemplation of this statute. This amount was included in the receipts for the year in which it was actually received and paid in, and should not, I think, be considered as a part of the receipts for the succeeding year because it happens to be in the treasury during a part of that time.

The Attorney General is not authorized to officially advise in a case of this kind, and, therefore, what is said in this letter cannot be regarded as an official expression from this office.

With kind personal regards, I am,

Yours very truly,

T. F. WEST,

Attorney General.

CONCEALED WEAPONS—CONFISCATION
BY SHERIFFS.

Tallahassee, Fla., Oct. 19, 1915.

My dear Sir:—

Yours of the 18th instant duly received, as follows:

"Kindly inform me what dispositions are made of concealed weapons taken from persons convicted in Justice Courts," etc.

Replying to the same, will advise that this matter is taken care of by Section 3270 of the General Statutes of Florida, which provides as follows:

"The officer making any arrest under the preceding sections shall take possession of any arms or weapons found upon the person arrested, and shall retain the same until after the trial of such person, and if he be convicted, said arms or weapons shall be forfeited, and the sheriff shall sell the same at public sale and account for and pay over the proceeds thereof as in the case of fines collected; but if such person be acquitted, the said arms or weapons shall be returned to him."

Yours very truly,

T. F. WEST,

Attorney General.

HUNTING LICENSE—HOME COUNTY OF
APPLICANT.

Tallahassee, Fla., Oct. 21, 1915.

My dear Sir:—

Yours of the 21st instant has been received and noted.

I infer from your letter that the home of the party named in Live Oak, Florida, and that he is only tempor-

arily in Jackson county. If this is the case he would have to exercise his hunting privileges under the law in the county in which his home is located, and not in Jackson county, as he can only have one home in the State.

Yours very truly,

T. F. WEST,
Attorney General.

ARCHITECTURE—ELIGIBILITY OF FORMER ARCHITECTS TO CERTIFICATE.

Tallahassee, Fla., November 17, 1915.

My dear Sir:—

I have yours of November 10th, submitting the following for my opinion:

"This Board desires your opinion upon the following questions which have arisen since its organization.

"(a) Does Section 10 of Chapter 6951 (No. 145) Laws of Florida compel this Board to require all persons entitled to receive certificate to practice architecture in this State, but who have failed to make affidavit within ninety days, to appear before it for examination or has this Board the power to use discretion and waive such examination.

"(b) Is it your opinion that the period of having practiced architecture as provided in the following passage: 'at the time of the passage of this Act have been engaged in the practice of architecture in this State for at least one year' is to be construed as meaning at least from May 29th, 1914, to May 29th, 1915 (the date of approval) or has practiced for at least a year at any time previous to the passage of the act.

"This Board intends to administer this law in all of its requirements fairly and without prejudice, therefore respectfully request your opinion."

In reply, I beg to advise that Chapter 6951, Acts of 1915

creating the State Board of Architects, does not seem to contain any provision authorizing or compelling your Board to require all persons desiring to practice architecture in this State to proceed under section 10 of the Act in question to secure a certificate. Section 12 of the Act, as above referred to, does, however, prescribe a penalty for practicing architecture in this State without such certificate.

In reply to your second inquiry, will state that the clause "at the time of the passage of the Act have been engaged in the practice of architecture in this State for at least one year," ordinarily would mean one year prior to May 29, 1915, the date of the approval of this Act.

Under this wording, however, some rare cases might arise in which the State Board of Architects could exercise a reasonable latitude and discretion in the matter.

The Attorney General is not authorized to officially advise in matters of this kind. This is merely to assist you in arriving at a proper conclusion in the premises, which I shall take pleasure in doing at any time.

Yours very truly,

T. F. WEST,
Attorney General.

MEMBERS OF SCHOOL BOARDS AND COUNTY COMMISSIONS NOMINATED BY DISTRICTS.

Tallahassee, Fla., November 20, 1915.

My dear Sir:

I have yours of November 15th, submitting the following for my opinion:

"Will the County Commissioners and members of the School Boards be nominated by the district or by the county as a whole?"

In reply, I beg to advise that Section 63 of Chapter

6469, Acts of 1913, as amended by Chapter 6874, Acts of 1915, provides that County Commissioners and members of the Board of Public Instruction shall be nominated by the several districts of the counties instead of by the county at large.

Yours very truly,

T. F. WEST,

Attorney General.

SALARIES OF OFFICERS BASED ON POPULATION—DETERMINED BY CENSUS.

Tallahassee, Fla., December 3, 1915.

My dear Sir:

Yours of the 26th ult. has been received and noted.

Statutes fixing the compensation of officers, based upon the inhabitants of the county, usually prescribe that the population shall be determined by reference to the most recent State or Federal census. In this case, however, the method of ascertaining the population is not mentioned in the statute.

As a general proposition, I would say that, although the statute does not refer to the census as the proper method for determining the population of the county in a case of this kind, the Board of County Commissioners would be warranted in doing so; but if the Board is convinced, without the aid of a census report, that the population in the county for the years stated was in excess of the number stated in the statute, there is no law that I know of that would forbid them paying the salary prescribed in such a case.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, this letter can not be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,

Attorney General.

ELECTION DISTRICTS—WHEN BOUNDARIES MAY
BE CHANGED.

Tallahassee, Fla., Dec. 4, 1915.

My dear Sir:—

Yours of the 29th ultimo has been received and noted.

Under the statute referred to it would seem that the boundaries of election districts may be changed or new districts may be created by the Board of County Commissioners of the County at any time prior to the first day of July in any year "in which there shall be a general election."

The effect of this language, in my opinion, is to forbid such changes being made in any other year, but of course since this is a year in which a general election may be held, such changes may be made during the year.

Yours very truly,

T. F. WEST,

Attorney General.

AUTOMOBILE LICENSES—FIFTEEN PERCENTUM
PAYABLE TO STATE.

Tallahassee, Fla., Dec. 4, 1915.

Dear Sir:—

Yours of the 3rd instant has been received. I note your inquiry as follows:

"By request of Mr. T. W. Conely, Chairman of the Board of County Commissioners of Jackson County, I am writing for your opinion, whether or not the Commissioners of the Counties of Florida will be compelled by the Act of the 1915 Legislature, to pay over to the State Road Department 15 per cent of County Licenses collected from motor driven cars, etc. This Board will thank you for an early reply."

By reference to Chapters 6881 and 6883, Acts of 1915, it will be noted that it is expressly provided in each of them that they shall take effect on October 1, 1915.

The rules of statutory construction in cases of this kind are stated by the Supreme Court of this State in the case of *Curry v. Lehman*, 55 Fla. 847, as follows:

"Undoubtedly the general rule of statutory construction is that the intent of the lawmakers is to be found in the language that has been used, and the courts have no function of legislation, but simply seek to ascertain the will of the Legislature. If, however, from a view of the whole law, or from other laws *in pari materia*, the evident intention is different from the literal import of the terms employed to express it in a particular part of the law, that intention should prevail, for that, in fact, is the will of the Legislature."

"It is to be presumed that different acts on the same subject passed at the same session of the Legislature are imbued by the same spirit and actuated by the same policy and they should be construed each in the light of the other. The legal presumption is that the Legislature did not intend to keep really contradictory enactments in the statute books, or to effect so important a measure as the repeal of a law without expressing an intention to do so. An interpretation leading to such a result should not be adopted unless it be inevitable. The rule of construction in such cases is that if courts can by any fair, strict or liberal construction find for the two provisions a reasonable field of operation, without destroying their evident intent and meaning, preserving the force of both, and construing them together in harmony with the whole course of legislation upon the subject, it is their duty to do so."

In view of this situation and the rules of construction above quoted, my opinion is that there is no such conflict between the two provisions of the statutes referred to as that one should be held to effect the repeal of the other and that both statutes are in full force and effect.

If I am correct in this view, then each of the counties should pay over fifteen per cent of the amount of all County licenses collected upon automobiles, automobile trucks and other motor driven vehicles by Section 10 of Chapter 6883, Laws of Florida.*

Yours very truly,

T. F. WEST,
Attorney General.

COUNTY ROAD BOND MONEY MAY BE APPLIED
TO STREETS—DISCRETIONARY.

Tallahassee, Fla., December 4, 1915.

My dear Sir:

Yours of the 17th ult. has been received. I note your inquiry, as follows:

"We are working on a bond issue in Polk County to build good roads. Should the county build main roads through the incorporated towns with bond money, or stop at the city limit?"

Under the law, Boards of County Commissioners are, in my judgment, authorized to use some discretion in matters of this kind; but if it is deemed advisable, they are authorized to construct roads in such cases within the boundaries of municipal corporations in this State.

I presume this matter will be considered by the attorney for your Board, and I suggest that you call his attention to the cases of *State ex rel. Garrison vs. Commissioners of Putnam County*, 23 Fla., 632; and *Skinner et al. vs. Henderson et al.*, 26 Fla., 121.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, this letter can not be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,
Attorney General.

(*See *State ex rel. Luning v. Johnson*, 71 Fla. 363.)

OYSTER DEALERS — LICENSE — SERVING WITH
MEALS.

Tallahassee, Fla., December 10, 1915.

My dear Sir:

I have yours of November 28, with enclosure, submitting the following for my opinion:

"Enclosed please find receipt for \$5.25, which I have been taxed to sell oysters at my table. I buy these oysters from a dealer here and I only handle them at my table. Please inform me if this is the proper interpretation of the law.

"This now makes five different licenses that I have paid to run a small restaurant—three of them to the State, one to the city, and one to the county."

In reply, I beg to advise that I am of the opinion that hotels and restaurants serving oysters as part of a meal are not subject to a license tax therefor. The law does seem to require that restaurants and boarding-houses in the business of buying oysters and retailing same should be required to take out such license.

The Attorney General is not authorized to officially advise in matters of this kind. This is merely to assist you in arriving at a proper conclusion in the premises, which I shall take pleasure in doing at any time.

Yours very truly,

T. F. WEST,
Attorney General.

CLUBS—PERSONAL PROPERTY OF SUBJECT TO
ASSESSMENT FOR TAXATION.

Tallahassee, Fla., Dec. 16, 1915.

My dear Sir:—

Yours of the 14th instant has been received.

I note your inquiry, as follows:

"As you are aware many of the bar rooms located in

this city have been converted into clubs and being operated under charters and it having been the custom in the past to carry a personal assessment against the saloons, would you kindly advise me as to whether I have the right to assess such clubs with a personal assessment."

Replying to the same will say that as a general proposition all personal property in the State should be taxed, and there is no reason that I know of why the personal property held by clubs such as you describe should not be taxed in like manner as the personal property of other property owners in this State.

Yours very truly,

T. F. WEST,

Attorney General.

COUNTY TREASURER MAY BECOME CANDIDATE
FOR ANOTHER OFFICE.

Tallahassee, Fla., Dec. 21, 1915.

My dear Sir:—

Yours of the 20th instant has been received and noted.

There is, in my opinion, no legal objection to your becoming a candidate for another office while you are still serving in the office of County Treasurer.

The office which you now hold ceases to exist, under the law, at the same time that you would take charge of another office for which you may be a candidate in case of your election and there would, therefore, be no conflict.

Yours truly,

T. F. WEST,

Attorney General.

ROAD OR STREET DUTY—MALES OVER EIGHTEEN AND UNDER TWENTY-ONE SUBJECT TO.

Tallahassee, Fla., January 10, 1916.

My dear Sir:—

I have yours of January 7th, submitting the following inquiry:

"We have an ordinance in our town based on the General Statutes requiring all persons from eighteen years old and under forty-five to pay a street tax of \$5.00 per annum, which of course is to take the place of road duty. It is contended by some that we cannot collect this tax from those between the ages of eighteen and twenty-one. I will greatly appreciate it if you will give me the status of the law at this time in regard to this matter. From the investigation I have made it appears that those over eighteen and under twenty-one are as much liable to street duty as those in the country are to road duty. I am the Mayor of our town and would like very much to know exactly what the law is in regard to this matter.

"If there are any cases that have been decided by our Supreme Court I will appreciate it if you will give me also the citations."

In reply, I beg to advise that I know of no legal reason why the legislature should not impose a street or road duty on citizens from eighteen to twenty-one years of age. The case of *Mashburn vs. State*, 65 Fla. 470, South. 586, upheld the legality of a law of this kind.

I would suggest that you read the decision of our Supreme Court in the case of *Gallaway vs. Tavares*, 37 Fla. 58, 19 South. 170.

The Attorney General is not authorized to officially ad-

wise in matters of this kind. This is merely to assist you in arriving at a proper conclusion in the premises, which I shall take pleasure in doing at any time.

Yours very truly,

T. F. WEST,
Attorney General.

PROOF OF INSOLVENCY—SUPERSEDEAS BOND—
PREPAYMENT OF COSTS.

Tallahassee, Fla., Jan. 12, 1916.

Dear Judge:

Yours of the 10th inst. has been received and noted.

The answer to your inquiry, I think, is found in Sections 4046 to 4050 of the General Statutes of 1906.

In case of the insolvency of a person desiring to appeal, where proof of such insolvency is satisfactory, I think an order of supersedeas might be made upon the filing of satisfactory bond, although the costs accruing up to that time have not been paid.

Yours very truly,

T. F. WEST,
Attorney General.

EMPLOYEES — SEATS TO BE FURNISHED IN
STORES.

Tallahassee, Fla., January 12, 1916.

Dear Madam:

Your letter has been received. I note your inquiry, as follows:

"The Orlando W. C. T. U. have become very much interested in the girls of the department stores and wish to

know if there is a State law providing for chairs for girls when not at work, that they may rest. It seems a useless waste of energy to stand when not necessary."

There is a statute in this State on the subject of your inquiry, copy of which I am enclosing. This is Section 3235 of the General Statutes of 1906 and, if you wish to examine the original, you will find the book in the office of the Clerk of the Circuit Court or County Judge, or any lawyer of your city.

Yours very truly,

T. F. WEST,
Attorney General.

**TAXATION — ASSESSMENT OF UNOCCUPIED
SCHOOL AND CHURCH PROPERTY.**

Tallahassee, Fla., January 21. 1916.

My dear Sir:

Yours of the 18th inst. has been received and noted.

In my opinion, all the property described which is not directly used for school or church purposes should be taxed, and that the proper course for you to pursue would be to assess such land as you do other lands for such purposes.

If the owner of the property desires to test the question, that can be done; but my view is that it is your duty in the first instance to assess all of such property which is not directly used for school or church purposes, as I have stated.

The Attorney General is not authorized to officially advise county officers in this State and this letter can not, therefore, be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,
Attorney General.

LICENSES—TYPEWRITER AGENTS PROCURE
LICENSE IN EACH COUNTY.

Tallahassee, Fla., February 12, 1916.

Dear Sir:

I have your communication of February 7 submitting the following inquiry:

"Under Chapter 6421 Laws of Florida 1913, I would like to have your views with reference to Sections 1, 2, 5 and 6 of this Chapter.

"The exact point would be this, for instance a Typewriter Agent who's head office is Jacksonville, Florida, and who travels out from Jacksonville to different Counties in the State taking orders for typewriters. Would such an Agent be required to pay a License Tax in each and every County in this State wherein he solicits orders for Typewriters?

"In giving me your views in the matter I wish to particular call your attention to Section 2 of the above named Chapter which is in part as follows: That in every case, not otherwise provided in this Act, a County license tax of fifty per cent. of the State license tax be and the same is hereby levied and imposed upon any business, profession or occupation mentioned in this Act and the Tax Collector of each County in this State is hereby authorized and directed to collect such County license tax when the business, profession or occupation is engaged in, conducted or carried on in any such County, * * *.

"And in Section 6 the law says, Each individual who acts as Agent, and each individual who acts as business or sales agent for Corporations engaged in any business mentioned in this Section shall be required to take out a License as Agent in his own name."

In replying I beg to advise that it appears that persons acting in the capacity of agents for typewriter companies

and who travel through the various counties of the State, acting in such capacity, would be subject to the County license tax in each county.

I am also advised by the Comptroller's Department that they have interpreted the law in this manner.

The Attorney General is not authorized to officially advise in matters of this kind. This is merely to assist you in arriving at a proper conclusion in the premises, which I shall be glad to do at any time.

Yours very truly,

T. F. WEST,
Attorney General.

**GAME WARDENS—ENTITLED TO FEES EARNED
PRIOR TO LAW BEING DECLARED INOPERATIVE.**

Tallahassee, Fla., February 15, 1916.

My dear Sir:

Yours of the 14th inst. have been received. I note your inquiry, as follows:

"My nephew, Marion B. Carson, was Game Warden for this county until the law was declared unconstitutional. During the time that he was discharging the duty of the office, and prior to the court decision, quite a lot of license money was paid. He is very anxious to receive that portion of the license money which the law allowed him. The officials here hesitate to pay until it is decided whether he is really entitled to it.

"Under my construction of the matter, he is clearly entitled to the compensation which the law allowed him until such time as the law was declared unconstitutional.

"Please advise if I am right and if, in your opinion, he

should receive his part of the license money up to the time the office was vacated."

Replying to same, will say that, in my opinion, the Game Warden of the county is entitled to compensation for the time that he served prior to the date of the filing of the opinion of the Supreme Court on November 18 last, holding the feature of the statute creating this office to be invalid, the theory being that the officer was at least a de facto officer, and if he actually performed any services the county would be warranted in compensating him for services.

Yours very truly,

T. F. WEST,
Attorney General.

WHEN NOMINATIONS MUST BE MADE BY PRIMARY ELECTIONS.

Tallahassee, Fla., February 17, 1916.

My dear Sir:

Yours of the 16th inst. has been received and noted.

By reference to Section 2 of Chapter 6469, the primary election law, you will see that political parties in this State which poll more than 5 per cent of the entire vote cast at the preceding general election are required to nominate all their candidates for office in the primary.

If they poll less than this percentage of votes they are not required to nominate their candidates for office in this manner, and I understand this was the case with the Republican party. This being true, the candidates of this party may be nominated by other methods.

If this office can be of any further assistance to you at any time, it will be cheerfully rendered.

Yours very truly,

T. F. WEST,
Attorney General.

COUNTY COMMISSIONERS NOMINATED BY
DISTRICTS.

Tallahassee, Fla., February 19, 1916.

My dear Sir:

Yours of the 16th instant has been received and noted.

County Commissioners are now nominated from the several districts, instead of by the county at large, as will appear from section 10 of Chapter 6874, Acts of 1915, amending section 63 of Chapter 6469, Acts of 1913, and reading as follows:

"The primary elections required by this Act, except as herein otherwise provided, shall be held in accordance with the provisions of Article 1 of Title IV, First Division of the General Statutes of Florida; Provided, however, that County Commissioners and members of the Board of Public Instruction shall be nominated by the several districts of the county instead of by the county at large."

Yours very truly,

T. F. WEST,

Attorney General.

ALDERMAN—VACATION OF OFFICE BY CHANGE
OF RESIDENCE.

Tallahassee, Fla., March 7, 1916.

Dear Sir:

Yours of the 2d inst. has been received and noted.

The general rule is that an office becomes vacant when the incumbent ceases to be an inhabitant of the State, district, county, town or city for which he shall have been elected. This is the case in this State by statutory provision, the matter being covered by the fourth paragraph of Section 298 of the General Statutes.

If the alderman referred to has actually removed from the town and established his residence outside of the town,

the office, I think, becomes vacant and such person is probably ineligible to re-election to such office. Of course, it may be that your charter or ordinances authorize the holding of offices of the town by non-residents and, if this is the case, the provisions of charter and ordinances would be controlling.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is stated in this letter can only be regarded as my personal views based upon the facts stated in your inquiry.

Yours very truly,

T. F. WEST,
Attorney General.

TAXATION—VALUATION BY ASSESSOR—
REVIEWED.

Tallahassee, Fla., March 8, 1916.

Dear Sir:

Yours of the 28 ultimo has been received and noted.

Under separate cover I am forwarding you today a compilation of the tax laws of this State.

You will find that the duty of assessing property in this State for the purpose of taxation rests primarily upon the tax assessors of the various counties of the State, but the valuation placed upon property by the tax assessor may be reviewed by the board of county commissioners at a meeting to be held for this purpose in July of each year. If the property owner does not make complaint and have the question of valuation of his property considered and reviewed by the board of county commissioners at this meeting, he will not be able thereafter to have the valuation reduced.

Yours very truly,

T. F. WEST,
Attorney General.

JUSTICE OF THE PEACE COURTS—FIVE DAYS
ALLOWED IN WHICH TO PAY FINES.

Tallahassee, Fla., March 8, 1916.

My dear Sir:

Yours of the 4 instant has been received and noted.

It would seem that a person sentenced *to pay a pecuniary fine* under the provisions of Chapter 5923, Acts of 1909, is entitled to remain in jail, if he desires to do so, for five days after such sentence before being delivered over to the custody of the lessee or other person working the county prisoners.

If a person so sentenced does not desire to remain in jail for this period but is willing to go out to work, I think you have the right to deliver him over into the custody of the person working the prisoners.

The Attorney General is not authorized to officially advise in matters of this kind and, therefore, this letter cannot be considered as an official expression from this office.

Yours very truly,

T. F. WEST,
Attorney General.

SHERIFF'S POWER TO ARREST VIOLATORS OF
SALT WATER FISH LAW CHAPTER 6877.

Tallahassee, Fla., March 11, 1916.

My dear Sir:

Yours of the 8th instant has been received and noted.

You will note by the title of Chapter 6877 that it applies only to the salt water fishing industry; and I am enclosing herewith copy of an opinion which I prepared, in reply to an inquiry from the Comptroller, which may be of some assistance to you.

In my opinion, the legislature did not intend by sec-

tion 18 of this statute to confer upon the Shell Fish Commissioner the exclusive authority to enforce the provisions of this act, and the statute should not be construed as taking from the Sheriff the authority to arrest any person who violates the statute; and I would say that it is the duty of the prosecuting attorney to prosecute those who violate the provisions of the statute without regard to whether they are arrested by the Shell Fish Commissioner or the Sheriff or other officer.

The Attorney General is not authorized to officially advise in matters of this kind, and this letter cannot, therefore, be considered as an official expression from this office.

Yours very truly,

T. F. WEST,

Attorney General.

REGISTRATION OF ELECTORS — NATURALIZED
PERSONS MUST EXHIBIT NATURALIZATION
PAPERS.

Tallahassee, Fla., March 14, 1916.

Dear Sir:

Yours of the 17th inst. has been received. I have been constantly engaged in a meeting of the Board of Pardons for the last few days and have not had an opportunity to think of the matter about which you inquire until today.

It is provided in the constitutional provision quoted in your letter that naturalized citizens of the United States *at the time of and before registration shall produce* to the registration officer their certificates of naturalization or a duly certified copy thereof.

By Section 170 of the General Statutes it is provided that "naturalized citizens of the United States, at the time of and before registration, shall produce to the registration officer their certificates of naturalization or a duly certified copy thereof, and shall make oath that they are

the identical persons named in such certificates before they shall be allowed to register."

By paragraph 10 of Section 14 of the Primary Election Law, in prescribing the information that shall be noted on the registration books of those applying for registration, it is provided that "if naturalized, the time, place and court of naturalization or declaration as evidenced by the legal proof thereof exhibited by such person."

By the concluding paragraph of Section 12 of the Primary Election Law it is provided that all persons applying for registration in the registration books for primary elections shall, in addition to the oath prescribed, also take the oath required by Section 3 of Article VI of the Constitution in the manner prescribed by Section 178 of the General Statutes.

You will note that by this oath each person applying for registration must swear that he is a citizen of the United States and that he is qualified to vote under the Constitution and laws of the State of Florida.

By Section 9 of the Primary Election Law, as amended in 1915, it is provided that all persons residing in election precincts located wholly or in part in a city of more than 20,000 population, who register biennially for the primary election, shall also be entitled to vote in general elections, thus making them qualified voters in general elections without an additional registration on the registration books for general elections.

From these various statutory provisions it appears that an elector who applies for registration for primary elections must be able to swear that he is a qualified elector under the Constitution and laws of the State of Florida, and in the precincts located wholly or partially within cities of more than 20,000 inhabitants, this registration is sufficient for all purposes and no other registration is required.

In this situation, my opinion is that the registration

officer may properly construe paragraph 10 of Section 14 of the Primary Election Law as requiring all naturalized persons who apply to him for registration for primary elections to exhibit to him their certificates of naturalization or a duly certified copy of such certificates.

You will understand, of course, that the Attorney General is not authorized to officially advise in a case of this kind and, therefore, this letter can not be regarded as an official expression from this office, but represents my views as an attorney after a hurried consideration of the questions involved.

With kind personal regards, I am,

Yours very truly,

T. F. WEST,
Attorney General.

CANDIDATES — COMMITTEE ASSESSMENT OPTIONAL AND THE AMOUNT DISCRETIONARY WHERE ANNUAL SALARY INDEFINITE.

Tallahassee, Fla., March 18, 1916.

My dear Sir:

Yours of the 17th inst. has been received and noted.

The assessment which may be made by Executive Committees upon candidates for the purpose of meeting the expenses of the committees is not exceeding 2 per cent of the annual salary or compensation of the office sought by the candidate. This is provided for by Section 20 of Chapter 6469, Acts of 1915, commonly called the Primary Election Law. In the same statute, by Section 24, each candidate is required to pay a filing fee of 3 per cent of the annual salary or compensation of the office sought by the candidate.

It appears that the assessment is optional; that is, it may or may not be made by the committee; but the pay-

ment of the filing fee is mandatory and does not depend upon any action of the committee.

The compensation of members of the Legislature is fixed by the Constitution of the State at not exceeding \$6.00 a day for each day of the session. And it is also provided that the length of the regular session shall not exceed sixty days and the length of special session, which may be convened at any time by the Governor of the State, shall not exceed twenty days.

It is apparent that there is no "annual salary," as the term is generally understood, and that the compensation of a member of the Legislature depends upon a number of circumstances and is, therefore, indefinite. This being the case, it would seem that the County Committee may exercise considerable discretion in determining what amounts of the assessment and filing fees shall be paid by the candidates for the Legislature, and I suggest, therefore, that you confer with the chairman of the committee of your county in regard to the matter.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is stated in this letter can not be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,

Attorney General.

PAYMENT OF POLL TAX NOT PREREQUISITE
TO REGISTERING.

Tallahassee, Fla., March 27, 1916.

My dear Sir:

Honorable Ernest Amos has written me in reference to a ruling of the district registration officer at Pinellas Park to the effect that a person applying for registration

must, before being registered, show to the registration officer that he has paid all poll taxes that may be due by him, and Mr. Amos asked me to write you in reference to the matter.

There is nothing in the law requiring that this be done or authorizing the registration officer to require it, and my understanding is that any person may register, whether he has paid his poll tax or not, provided of course, he is otherwise qualified and can take the oath required. In other words, the payment of poll taxes is not a prerequisite to registration. This is necessarily the case since the registration books are first opened in the counties in March, whereas an elector is entitled to vote in the primary if he pays his poll taxes legally due on or before the second Saturday in the month preceding the month in which the election is held, which, in the case of the primary election to be held on the 6 of June, would be the second Saturday in May preceding.

Yours very truly,

T. F. WEST,
Attorney General.

PRIMARY ELECTIONS—OPTIONAL TO VOTE
FIRST AND SECOND CHOICE.

Tallahassee, Fla., March 28, 1916.

My dear Sir:

Yours of the 27 instant has been received and noted.

There is nothing in the primary election law compelling a voter to vote for a first and second choice in any case. This is left to the option of each voter, who may or may not do so as he chooses.

Yours very truly,

T. F. WEST,
Attorney General.

CANDIDATES PROMISING TO DONATE PORTION
OF SALARY—CORRUPT PRACTICE.

Tallahassee, Fla., April 10, 1916.

My dear Sir:

Yours of the 8 instant has been received. I note your inquiry as follows:

"I am a candidate for Sheriff, and advocate the salary system, would I be violating the law if I tell the voters that if elected, and the Legislature should pass a bill putting the officers on a salary that I would give all over the salary designated by the Legislature to the School or Road fund."

This may be regarded as an open question in this State, as it has not been passed on by the courts, so far as I know, but my judgment is that it will be dangerous for you to make the offer or promise outlined in your letter.

The following cases, which you can find, no doubt, in the office of some of the lawyers of your town, will suggest to you the possible result in case the offer should be made:

State ex rel. v. Collier, 72 Mo. 13, 37 Am. Rep. 417.

Carrothers v. Russell, 53 Ia. 345, 36 Am. Rep. 222.

State v. Church, 5 Ore. 375, 20 Am. Rep. 746.

It is possible, also, that the courts would hold this to be a violation of the provisions of Chapter 6470, Acts of 1913, commonly called the Corrupt Practice Act.

The Attorney General is not authorized to officially advise in matters of this kind and, therefore, what is said in this letter can not be considered as an official expression from this office.

Yours very truly,

T. F. WEST,

Attorney General

REGISTRATION FOR PRIMARY—CITIZENSHIP
AND RESIDENCE.

Tallahassee, Fla., April 19, 1916.

My dear Sir:

Yours of the 17th inst. has been received and noted.

These cases, as you know, depend largely on the facts. I would say that if the party about whom you write was away from the State only temporarily and never intended to change his residence from the State and establish a residence elsewhere, but at all times while out of the State intended to return and retain his residence and citizenship in the State, as seems to be the case from your letter, he would be entitled to register and vote in this State.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, this letter can not be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,
Attorney General.

SELECTION OF INSPECTORS FOR PRIMARY
ELECTIONS—PARTY AFFILIATIONS.

Tallahassee, Fla., April 29, 1916.

Dear Sir:

Yours of the 18 instant has been received and noted.

There are a great many hard nuts to crack in the application of the primary election law, and this question of the revision of the registration books is one of them.

As originally drafted and adopted, this statute provided for a bennial registration, that-is-to-say, a registration of each elector in each election year. Under this

rule there would be no reason for a revision of the registration books, as no one would be entitled to vote who failed to register bennially as required by law.

Slight changes were made in this statute by amendments at the last last session of the legislature, but these changes are not, in my judgment, sufficient to change this principle.

With regard to the selection of inspectors and clerks for the primary election it should be borne in mind that this is not a democratic primary, but a general primary in which all parties, as defined by the statute are required to participate. This being the case, it would hardly be proper for all inspectors and clerks to be selected from one party.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is stated in this letter cannot be regarded as an official expression from this office.

With kind personal regards, I am,

Yours very truly,

T. F. WEST,

Attorney General.

FINAL DATE FOR MAKING COMMITTEE ASSESSMENTS UPON CANDIDATES.

Tallahassee, Fla., April 29, 1916.

Dear Sir:

Yours of the 28 instant has been received and noted.

By reference to Section 21 of the primary election law, you will note that assessments levied upon candidates must be made not later than March 15 of each year in which a primary election is to be held. I understand this to mean that, if the action of the committee is not taken on or before March 15, the assessment cannot be made.

The filing fees, however, are fixed by Section 24 of this statute at three per cent. of the annual salary or compensation of the office sought. The amount of this filing fee is of course a matter of calculation, and in case of the office of County Solicitor should, in my judgment, be fixed at three per cent. of the approximate gross income of the office. The local committee I suppose will make this estimate so as to be able to notify all candidates for the office what the amount of the filing fee is.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is said in this letter cannot be regarded as an official expression from this office.

I am returning herewith the report of the office of Tax Assessor which was forwarded to me in your letter.

Yours very truly,

T. F. WEST,
Attorney General.

FINAL DATE OF REGISTRATION FOR PRIMARY.

Tallahassee, Fla., May 1, 1916.

My dear Sir:

Yours of the 29th ult. has been received. I note your inquiry, as follows:

"I am writing you relative to registering voters after today. I note in the Bryan Primary Election Laws that today is the last day that I am allowed to register anyone for the June primary election. Mr. West, I am satisfied that you are well aware that this time of the year is the busiest time for the farmers, as they are now arranging for their crop and for that reason there are about 200 or 300 that have been unable to come in and register or go to the district registration officer. I am asking for

your advice as to whether it will be legal for me to register anyone up to the 13th day of May. I will appreciate it if you will immediately, upon receipt of this letter, wire me your answer."

Section 10 of the statute referred to, as amended by the Legislature at the regular session of 1915, provides that:

"It is hereby made the duty of the Supervisor of Registration of each county in this State, *between* March 1, 1914, and May 1, 1914, and biennially between corresponding dates thereafter, to keep the registration books of the county open," etc.

This statute fixes the time during which the registration books for primary elections shall be open, and you, as Supervisor of Registration of the county, would not, in my opinion, be authorized to keep the registration books open until May 13, as you suggest. As long as this statute is in force, no one has authority to change or waive any of its provisions. This can be done only by the Legislature which enacted it. If you should continue the books open for the period suggested, the result probably would be to invalidate the primary election in the county.

The only thing for an officer to do is to comply with the law which prescribes his duty, and if the law operates harshly the Legislature should be asked to modify it so as to meet the needs of the situation and the wishes of the people.

With kind personal regards, I am,

Yours very truly,

T. F. WEST,

Attorney General.

HOURS REGISTRATION BOOKS MAY BE KEPT
OPEN.

Tallahassee, Fla., May 4, 1916.

Dear Sir:

Yours of the the 29 ultimo has been received and noted.

The statute mentioned makes it the duty of the Supervisor of Registration to keep the registration books of the county open at his office during certain hours in the day. This, in my judgment, does not forbid his keeping them open at other hours during this time, the purpose of the statute being to prescribe the duty of the officer and to require him to keep the books open during the hours mentioned in order that electors may have an opportunity to have their names entered upon the books. He cannot be compelled to keep the books open at other hours, but he is not forbidden to do so, and the Supervisor of Registration of your county would, in my judgment, have been fully warranted in entering the names of those who appeared at his office during the day on last Saturday, the 29 ultimo, although they appeared after the hour of five in the afternoon.

This, I think, is the law, and I hope you will be able to work out the matter in some satisfactory way.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is said in this letter cannot be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,

Attorney General.

FIXING AND DISPOSITION OF ASSESSMENTS
AND FILING FEES—IN PRIMARY ELECTION.

Tallahassee, Fla., May 5, 1916.

My dear Sirs:

Yours of the 4 instant has been received and noted.

The situation seems to me to be like this:

Section 20 of the Primary Election Law reads as follows:

"The executive committee of each political party affected by the provisions of this act are hereby authorized for the *purpose of meeting their legitimate expenses* and maintaining their said organizations, to levy assessments upon *such candidates of their respective parties* as are required by Section 24 to pay filing fees; but no executive committee shall levy assessments upon any candidate exceeding two (2) per cent of the annual salary or compensation of the office sought by him."

It will be noted that this assessment is made upon candidates and is for the purpose of meeting the legitimate expenses of the executive committee making the assessment, and the assessment cannot exceed two per cent of the annual salary, etc. It may, of course, be less than two per cent., but it cannot exceed this amount, and is to be used by the committee in meeting the expenses incurred by it as a committee. The amount not so used may, in my judgment, be returned to the candidates, pro rata, if the amount collected on this account is in excess of the amount required.

Section 24 of the Primary Election Law reads as follows:

"Each candidates for nomination for any office herein provided for shall be required to pay a filing fee at the time of filing the sworn statement provided for in Section 22. The amount of said filing fee shall be three (3) per cent. of the annual salary or compensation of the office sought by the candidate; provided that no filing

fee shall be required of any candidate for any office to the holder of which no salary or compensation is required to be paid."

By Section 26 of this statute it is provided that candidates voted for wholly within a single county shall pay this filing fee to the Clerk of the Circuit Court of the county, and that he shall receive the same in his capacity as Clerk of the Board of County Commissioners of said county. This filing fee cannot be varied, as it is fixed by law at three per cent. and inasmuch as it is required to be paid to the Clerk of the Circuit Court, who shall receive it in his capacity as Clerk of the Board of County Commissioners, and since the expenses of the primary are paid by the county, I think it was not intended that any part of this filing fee be returned to the candidates, but that it remain in the treasury of the county for the purpose of meeting the expenses of the election, which are paid from the county treasury.

The fact that there are several candidates for an office might, and no doubt would, influence the committee in fixing the amount of the assessment provided for by Section 20, but no one (except the legislature) is authorized to vary the amount of the filing fee provided for by Section 24.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is stated in this letter cannot be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,
Attorney General.

REGISTRATION FOR PRIMARY, UPON OATH
TAKEN BEFORE TAX COLLECTOR, AFTER
BOOKS CLOSED, UNAUTHORIZED.

Tallahassee, Fla., May 5, 1916.

My dear Sir:

Yours of the 3d inst. has been received and noted.

Under Section 10 of the Primary Election Law, as amended in 1915, anyone who is otherwise qualified can take the oath prescribed before the Tax Collector upon payment of his poll taxes at any time, but this, in my opinion, does not authorize the Supervisor of Registration of the county to enter the name of the person making the affidavit upon the registration books of the county for primary elections at any time except during the time when the books are open as required by law. If a person could register in this way, it would mean that the registration books as to this class of electors could never be closed, but must be kept open at all times.

In this view of the case, I do not see how the party mentioned can register for the primary election to be held on June 6 next, since the registration books were closed on the 29th ult. in compliance with the statute on the subject.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is stated in this letter can not be regarded as an official statement from this office.

Yours very truly,

T. F. WEST,

Attorney General.

POLITICAL ADVERTISEMENTS SIGNED BY "COM-
MITTEE" DOES NOT COMPLY WITH LAW.

Tallahassee, Fla., May 10, 1916.

Dear Sir:

Yours of the 6th inst. has been received.

The signing of political advertisements by "Committee" without indicating who composed the committee or its officers is, in my opinion, not a compliance with the statute on the subjects. By Section 9 of Chapter 6470, you will note that it is required "that all political advertisements and all campaign literature published or circulated prior to or on the day of the primary election shall be signed by the author thereof, and if the same is being published and circulated by a club or a committee, then it shall be signed by the chairman and secretary of such club or committee, and such literature which is in circular form shall have upon it the name of the printer or publisher."

This quotation seems to answer your inquiry.

Yours very truly,

T. F. WEST,

Attorney General.

LATEST DAY UPON WHICH A CANDIDATE CAN
QUALIFY.

Tallahassee, Fla., May 15, 1916.

My dear Sir:

Your letter and telegram have been received, and I am wiring you as follows:

"Your letter and telegram received. Think seventeenth last day for county candidates to qualify by filing sworn statement and receipt for assessment; and that

one who had not announced his candidacy at time first campaign expense account must be filed under section nineteen Corrupt Practices Act, is not required to file such account."

By section 26 of the Primary Election Law it is required that each candidate for nomination in the primary, to be voted for wholly within a single county, shall file his sworn statement and receipt for committee assessment, if any has been levied, and pay his filing fee to the Clerk of the Circuit Court of said county *not less than twenty days previous to the day of the primary election.*

The primary election is to be held on June 6th, and the usual method for making the calculation for determining the last day upon which a candidate, under a statute like this, may qualify, is as follows:

Begin with the day preceding the day of the election, which is June 5th, and count back twenty days. The last day is May 17th; and since we do not include the day of the election, it is apparent and courts in construing similar statutes hold that the last day in the calculation "is not less than twenty days previous to the day of the election."

As I understand your other question, it is about like this: May one become a candidate in the primary after the time fixed in section 19 of the Corrupt Practices Act for filing the first statement of campaign expenses which candidates are required to file?

My answer is as follows: By section 26 of the Primary Election Law one may qualify as a candidate twenty days previous to the day of the primary election, and it is clear, under this statute, that one may become a candidate twenty days previous to the primary election who was not prior to that time a candidate. In such a case I think it would not be necessary to file the first statement of campaign expenses, for the very obvious reason that such person was not at the time when the statement

was required to be filed a candidate, but became a candidate later and after the last day for filing such statement.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is stated in this letter cannot be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,
Attorney General.

CANDIDATES MAY ANNOUNCE AFTER TIME FOR
FILING FIRST STATEMENT HAS ELAPSED.

Tallahassee, Fla., May 16, 1916.

My dear Sir:

Yours of the 15 instant has been received. I note your inquiry as follows:

"Where a candidate comes out, announces for office after the time has lapsed to file his first Statement, and enters the race, can he by filing his second Statement, enter the race and have his name placed on the ticket, for the Primary election? that is where there has no one qualified for the office, and there has been no expense."

As I understand your question, it is briefly stated like this: May one become a candidate in the primary after the time fixed in Section 19 of the Corrupt Practices Act for filing the first statement of campaign expenses which candidates are required to file.

My answer is as follows: By Section 26 of the Primary Election Law one may qualify as a candidate twenty days previous to the day of the primary election, and it is clear, under this statute, that one may become a candidate twenty days previous to the primary election

who was not prior to that time a candidate. In such a case I think it would not be necessary to file the first statement of campaign expenses for the very obvious reason that such person was not at the time when the statement was required to be filed a candidate, but became a candidate later and after the last day for filing such statement.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is stated in this letter cannot be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,

Attorney General.

REQUIREMENT AS TO FILING SWORN STATEMENTS UNDER CORRUPT PRACTICES ACT NOT WAIVABLE.

Tallahassee, Fla., May 18, 1916.

My dear Sir:

Yours of the 17th inst. has been received and noted.

This subject is covered by paragraphs 19 and 20 of Chapter 6470, 9cts of 1913, Laws of Florida, commonly called the Corrupt Practices Act. By reference to Section 19 you will see that the expense accounts required to be filed by candidates must be filed in the office of the Clerk of the Circuit Court, the first one *not more than* thirty days *nor less than* twenty-five days prior to the primary, etc. And by reference to Section 20 you will see that any candidate who fails to make and file either of these statements in the form and *at the time specified* shall not have the right to have his name placed on the ballot to be used in the primary election. And it is further provided that the name of no candidate failing to

file such statements as required shall be allowed or printed on the official ballot used in the general State and county election. In addition to this, all officers and committees are forbidden to issue any commission or certificate to a candidate who fails to comply with this statute, and any officer violating this provision may be punished by fine not exceeding \$500 or imprisonment not exceeding six months.

This statute expressly forbids the placing of the name of a candidate who fails to file the statements required on the ballot for either the primary or the general election, and prescribes a definite penalty for those who violate it. In my opinion, no one has authority to waive the express provisions of this law. The petition of opposing candidates indicates a very generous spirit, but it is, in my opinion, ineffectual to except the candidate in default or the officers mentioned from the penalties imposed by the statute. If this could be done, it would mean that all candidates for any given office could agree among themselves not to insist upon a compliance with this statute and, therefore, defeat the very purpose that it was designed to accomplish. This is not the situation in the case in your county now, but if it should be held that the candidates for this office could by agreement waive the provisions of this statute as to one of such candidates, it would necessarily mean that, if it was desirable, it could be waived as to all of them, and all of the candidates for any other office could do likewise.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is stated in this letter can not be regarded as an official expression from this office. It represents simply my views on the law of the case, but is not necessarily binding upon anyone.

Yours very truly,

T. F. WEST,

Attorney General.

**"FILING" DEFINED, AS USED IN CORRUPT
PRODUCE ACT, IN REFERENCE TO STATE-
MENTS.**

Tallahassee, Fla., May 23, 1916.

My dear Sir:

Yours of the 19 instant was duly received, but I was out of the office yesterday and, therefore, had no opportunity to reply to same.

The statute on the subject, that-is-to-say, Section 19 of the Corrupt Practices Act, requires a candidate for nomination in the primary *to file in the office of the Clerk of the Circuit Court of the County in which he resides*, if he is a candidate for a county office, within certain fixed periods, itemized statements of accounts of the expenditures made by him, directly or indirectly, on account of his candidacy.

You will note that the requirement is "to file" in the office of the Clerk of the Circuit Court of the County the statements required to be filed by a candidate.

In a recent case, *U. S. v. Lombardo*, (241 U. S. 73) the Supreme Court of the United States, in considering an act of Congress in which this word "file" was used in the same sense in which it is used in the statute which we are now considering, gives its approval to the definition of this word as follows: "The word 'file' was not defined by Congress. No definition having been given, the etymology of the word must be considered and ordinary meaning applied. The word 'file' is derived from the Latin word 'filum' and relates to the ancient practice of placing papers on a thread or wire for safe keeping and ready reference. Filing, it must be observed, is not complete until the document is delivered and received. 'Shall file' means a delivery to the office and not sent through the United States mail. * * * A paper is filed when

it is delivered to the proper officer and by him received and filed."

This, I think, will answer your question and show that a compliance with this statute requires that the statement shall be delivered to the officer and actually received and filed by him.

Yours very truly,

T. F. WEST,
Attorney General.

**ELECTORS, AT PRIMARY ELECTIONS, CAN ONLY
VOTE BALLOT OF PARTY UNDER WHICH HE
REGISTERED.**

Tallahassee, Fla., May 26, 1916.

My dear Sir:

Yours of the 25 instant has been received and noted.

The statute requires that each person who registers on the registration books for primary elections in this State shall declare his party affiliations at the time of registration, and when he goes to the polls to vote on the day the primary election is held he is given the ballot of the party of which he is a member.

The primary election is not a democratic primary, but a general primary, and all political parties in this State that polled more than five per cent. of the entire vote cast in this State at the last preceding general election are required to participate.

Since you did not register as a democrat, you will not be permitted to participate in the selection of the candidates of this party.

Yours very truly,

T. F. WEST,
Attorney General.

WHEN CANDIDATES MUST INDICATE GROUP IN WHICH HIS NAME MUST APPEAR ON BALLOT.

Tallahassee, Fla., May 30, 1916.

My dear Sir:

Yours of the 26 instant has been received and noted.

I get a great many letters making inquiry about different features of the Primary Election Law and, while my replies cannot be regarded as official, I have made an effort to promptly answer all of them. Your previous letter must have been misplaced and, therefore, escaped my attention.

The statute on the subject is Section 52 of the Primary Election Law as amended in 1915, which reads as follows:

"In the event more than one candidate is to be nominated for the same office and there are more candidates than should be nominated therefor, there shall be as many groups of candidates for that particular office as there are candidates to be nominated and each candidate for such office, in addition to the sworn statement required by Section 22 hereof, shall indicate therein the group in which he desires his name to appear on the ballot, and said groups shall be numerically designated. Provided, however, that candidates for delegates to national conventions shall not be nominated by groups, but by a plurality vote."

My opinion is that it is necessary, under this statute, for each candidate for the legislature to indicate the group in which he desires his name to appear on the ballot.

Yours very truly,

T. F. WEST,
Attorney General.

ELECTORS REGISTERED AS OF ONE PARTY CAN-
NOT VOTE FOR CANDIDATES OF ANOTHER IN
THE PRIMARY ELECTION.

Tallahassee, Fla., June 1, 1916.

My dear Sir:

Yours of the 29 ultimo has been received and noted.

Under the primary law one who has registered as a republican cannot vote for the candidates of the democratic party in the primary to be held on June 6 next.

Yours very truly,

T. F. WEST,
Attorney General.

COUNTY EXECUTIVE COMMITTEES MAY HOLD
OR PRORATE BALANCES IN FUND.

Tallahassee, Fla., June 13, 1916.

My dear Sir:

Yours of the 12th inst. has been received and noted.

My understanding is that the fund referred to is made up of the assessment fees paid to the County Executive Committee by candidates under the provisions of Section 20 of the Primary Election Law.

This fund is for the purpose of meeting the legitimate expenses of the committee and maintaining their party organization.

My view is that any excess in this fund after the election may be held by the committee or disposed of in the manner suggested; that is, by returning it pro rata to the candidates contributing it. The committee, however, as you know, is a continuing body and they are required, from time to time, during the terms of office of the members,

to hold meetings and incur expenses and, since this is the case, they may regard it as proper for them to hold the fund contributed, or a portion of it, for the purpose of meeting these expenses.

Yours very truly,

T. F. WEST,
Attorney General.

ASSESSMENT OF PROPERTY NOT USED DIRECTLY FOR CHURCH OR SCHOOL PURPOSES.

Tallahassee, Fla., June 15, 1916.

My dear Sir:

Yours of the 12th inst. has been received and noted.

In my opinion, all of the property mentioned which is not directly used for school or church purposes should be taxed, and that the proper course for you to pursue would be to assess such lands as you do other lands for such purposes.

The law on the subject is Section 1 of Article IX of the Constitution of Florida, and the fourth paragraph of Section 4 of Chapter 5596, Acts of 1907.

If the owner of the property desires to test the question, that can be done; but my view is that it is your duty in the first instance to assess all of such property which is not directly used for school or church purposes, as I have said.

The Attorney General is not authorized to officially advise in matters of this kind and, therefore, what is said in this letter can not be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,
Attorney General.

WHEN CANDIDATE IN A GROUP NOMINATED
WITHOUT OPPOSITION.

Tallahassee, Fla., June 21, 1916.

My dear Sir:

Yours of the 17 instant has been received and noted.

By Section 52 of the Primary Election Law of 1913 as amended by Section 8 of the amendatory act of 1915, it is provided that:

"In the event more than one candidate is to be nominated for the same office and there are more candidates than should be nominated therefor, there shall be as many groups of candidates for that particular office as there are candidates to be nominated, and each candidate for such office, in addition to the sworn statement required by Section 22 hereof, shall indicate therein the group in which he desires his name to appear on the ballot, and said groups shall be numerically designated. Provided, however, that candidates for delegates to national conventions shall not be nominated by groups, but by a plurality vote."

By Section 27 of the same statute it is provided that:

"Each person who shall have filed his sworn statement and paid his filing fee and committee assessment, if any, as herein required, shall be entitled to have his name printed on the official primary election ballot; Provided, That whenever the number of candidates of any political party for any office or position shall not exceed the number required to be nominated or elected to said office or position, the names of such candidates shall not be printed on the official primary election ballot, but such candidates are hereby declared to be nominated for such office, or elected to such position."

The effect of these two statutes is that each candidate for the legislature from counties having two representatives shall indicate the "group" in which he desires his name to appear. In your county it appears that there were two candidates in one group and only one candidate

in the other group. The result of this situation is that, under the provisions of Section 27 as quoted herein, the candidate running alone in one group was without opposition and was nominated without having his name placed on the ticket.

Yours very truly,

T. F. WEST,
Attorney General.

NO AUTHORITY VESTED IN TRUSTEES OF SPECIAL TAX SCHOOL DISTRICT TO CONTRACT A DEBT WITHOUT APPROVAL OF SCHOOL BOARD.

Tallahassee, Fla., June 30, 1916.

My dear Sir:

Yours of the 26th instant has been received and noted.

In reply to your inquiry, I beg to advise that Section 414 of the General Statutes of Florida provides that no debt shall be created against any Special Tax School District in this State without the approval of the County Board of Public Instruction. Our Supreme Court, in the case of Pinock v. State, 61 Fla. 383, has upheld this provision. You can read this decision by calling on your County Judge, who has this book in his office.

The Supreme Court has also held, in the case of Trustees v. Lewis, 63 Fla. 691, that "the statutory authority of the Trustees of Special Tax school Districts is not of control, but of supervision only."

You might also read the case of McKinnon v. State, 70 Southern Reporter, 567, which you can see in the office of any lawyer in your county.

If this office can be of any further service to you at any time, it will be cheerfully rendered.

Yours very truly,

T. F. WEST,
Attorney General.

AUTHORITY TO RETURN TO CANDIDATES
UNUSED PORTION OF FILING FEE.

Tallahassee, Fla., July 3, 1916.

My dear Sir:

Yours of the 30 ultimo has been received and noted.

In this reply I am assuming that you refer to the filing fee imposed by Section 24 of the Primary Election Law upon candidates for nomination for office.

Candidates for nomination for an office to be voted for wholly within a single county pay this filing fee to the Clerk of the Circuit Court of the County, who receives the same in his capacity as Clerk of the Board of County Commissioners of said County.

Since the expenses of the primary election are paid from public funds, my understanding of the purpose of this law was to provide a fund sufficient to take care of this expense. It happens in your case that the amount was greater than was necessary for this purpose, but it was not, in my opinion, the intention of the legislature that any excess of this fund be returned to those paying it into the treasury.

The only way for returning it to those paying it would be by warrants drawn by the Board of County Commissioners in the usual manner of paying out public funds and there is nothing in the law to forbid this being done and the County Commissioners probably have the power to do it, but, as I have said, my opinion is that this was not the intention of the legislature when the law was enacted any more than it was their intention that the legislature should, by appropriation for that purpose, return to the candidates for other offices any excess remaining in this fund after the expenses of the primary, which are paid from the State treasury, have been met.

Yours very truly,

T. F. WEST,
Attorney General.

COUNTY NOT AUTHORIZED TO OFFER REWARDS
FOR ESCAPED CONVICTS, OR FOR CONVICTS
FOR VIOLATIONS OF LOCAL OPTION LAW.

Tallahassee, Fla., July 14, 1916.

My dear Sir:

Yours of the 14 instant has been received and noted.

There is no law that I know of authorizing counties to expend public moneys on account of rewards for the capture of escaped county convicts or for the conviction of parties engaging in the sale of liquors in dry counties in this State. I appreciate the fact that it is some times desirable and, as a matter of policy, perhaps advisable, to pay rewards in cases of this kind, but, as you understand, public moneys cannot be expended for any purposes other than those authorized by statute, and, as I say, there is no statute that I recall now authorizing expenditures of this kind.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is stated in this letter cannot be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,
Attorney General.

COUNTY COMMISSIONER VACATES OFFICE BY
MOVING FROM COUNTY OR DISTRICT.

Tallahassee, Fla., August 19, 1916.

My dear Sir:

Yours of the 17 instant has been received. I note your inquiry as follows:

"One of the members of our board has moved out of the County but still claims this County for his citizenship

and is serving on the board. Will you kindly advise me your views on this matter at your earliest convenience."

The statute on this subject is Section 298 of the General Statutes of 1906, and that portion of this statute applicable to this case reads as follows:

"Every office shall be deemed vacant in the following cases:

"4. By his ceasing to be an inhabitant of the State, District, *county*, town or city for which he shall have been elected or appointed."

In Black's Law Dictionary an inhabitant is defined as "one who resides actually and permanently in a given place and has his domicile there."

If the County Commissioner referred to has actually removed from the county and permanently established his residence elsewhere, I think it would be held that he has vacated the office. But if he is only temporarily out of the county and has no intention of establishing a residence elsewhere but has at all times a bona fide intention of returning and continuing his residence in your county, it would probably be held that the office has not been vacated.

Yours very truly,

T. F. WEST,

Attorney General.

LEGALITY OF ASSISTANT POSTMASTER TO HOLD
OFFICE OF JUSTICE OF THE PEACE.

Tallahassee, Fla., October 10, 1916.

My dear Sir:

I have your communication of October 9 and in reply beg to advise that the subject-matter of your inquiry appears to be fully covered in Section 15 of Article XVI of the Constitution of Florida, which reads as follows:

"No person holding or exercising the functions of any

office under any foreign government, under the government of the United States, or any other State shall hold any office of honor or profit under the government of this State; and no person shall hold or perform the functions of, more than one office under the government of this State at the same time."

In view of the provision of the Constitution as above quoted and in view of the fact that justices of the peace are officers under the Constitution of this State and that assistant postmasters are officers appointed by the Post-office Department of the United States, it appears that the same person could not hold nor exercise the duties of such offices at one and the same time.

The Attorney General is not authorized to officially advise in matters of this kind. This is merely to assist you in arriving at a proper conclusion in the premises which I shall take pleasure in doing at any time.

Yours very truly,

T. F. WEST,
Attorney General.

TERRITORIAL JURISDICTION OF A JUSTICE OF THE PEACE.

Tallahassee, Fla., November 4, 1916.

My dear Sir:

Yours of the 2d inst. has been received and noted.

As a general proposition, the territorial jurisdiction of a Justice of the Peace is limited by the boundaries of his district, and he is not authorized to try cases arising outside of his district. There is an exception to this, how-

ever, provided by Section 22 of Article V of the Constitution of the State of Florida, by which a Justice of the Peace is authorized to conduct preliminary examinations of persons charged with crime in this State, although the offense may have been committed outside of his district. You will find this provision of the Constitution at page 39 of the General Statutes of 1906.

Yours very truly,

T. F. WEST,
Attorney General.

ELECTIONS—UNNECESSARY THAT NAMES OF
CANDIDATES APPEAR IN ALPHABETICAL
ORDER ON BALLOT.

Tallahassee, Fla., November 6, 1916.

My dear Sir:

Yours of the 4 instant has been received and noted.

I have examined the form of ballot enclosed therewith and note your request for my opinion as to whether or not this is a legal ballot.

The statute regulating this subject is Section 219 of the General Statutes as amended by Chapter 5612 of the Acts of 1907, and Section 220 of the General Statutes in which the form ballot is set out.

You will note that there is nothing in the law which expressly directs that the names of the candidates for the various offices shall appear in alphabetical order. I understand that some of the boards of county commissioners, in preparing the ballots, place the names on the ticket in alphabetical order, but other boards place the names of all

the candidates of the several parties for the various offices in groups, as they seem to be placed on the form forwarded to me. This, I think, is permissible and, in my opinion, the ballot sent me is a legal ballot.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is said in this letter can not be regarded as an official expression from this office.

Very truly yours,

T. F. WEST,

Attorney General.

HOLDING TWO OFFICES—DEPUTY SHERIFF AND CONSTABLE.

Tallahassee, Fla., November 22, 1916.

My dear Sir:

Yours of the 18th inst, in which you inquire if you can hold the positions of Constable of your district and Deputy Sheriff of the county at the same time, has been received.

The office of Constable is a constitutional office and is provided for by Section 23 of Article V of the Constitution of this State.

A Deputy Sheriff is a bonded officer of the county for which he acts, under the provisions of Chapter 6478, Acts of 1913, Laws of Florida.

By Section 15 of Article XVI of the Constitution, it is provided that:

"No person shall hold or perform the functions of more

than one office under the government of this State at the same time."

In view of these constitutional and statutory provisions, I think it doubtful if you could legally hold the two positions referred to at the same time.

Yours very truly,

T. F. WEST,

Attorney General.

QUALIFICATION OF ELECTORS TO VOTE IN
ELECTIONS TO CREATE, OR VOTE BONDS FOR,
SPECIAL ROAD DISTRICTS.

Tallahassee, Fla., December 9, 1916.

My dear Sir:

Yours of the 7 instant has been received and noted.

Only those persons who are *free-holders* are qualified to vote in an election creating a special road and bridge district and authorizing the issuance of bonds by such district. A *free-holder* is one who owns lands.

Yours very truly,

T. F. WEST,

Attorney General.

PHYSICIANS—LIABILITY FOR MUNICIPAL
LICENSE TAX.

Tallahassee, Fla., December 19, 1916.

My dear Sir:

Yours of the 19th instant has been received and noted.

The statute imposing State licenses is Chapter 6421, acts of 1913, laws of Florida, paragraph 7 of section 41 of which reads as follows:

"Physicians and Surgeons, all kinds, shall pay a license tax of ten (\$10.00) dollars."

Section 2 of the above act provides that in every case, not otherwise provided in this act, a County License Tax of fifty per cent. of the State License Tax be and the same is hereby levied and imposed upon any business, profession or occupation mentioned in this act, the same to be collected at the same time that the State license is collected.

It is also provided by said section 2 that incorporated cities and towns may impose a license tax of not exceeding fifty per cent. of the State license upon the same subjects

In view of the above provisions of the law it would seem that physicians are liable to the payment of State, County and municipal license taxes.

The Attorney General is not authorized to officially advise in matters of this kind, and, therefore, what is said in this letter cannot be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,
Attorney General.

HOLDING OFFICES OF NOTARY AND JUSTICE OF THE PEACE.

Tallahassee, Fla., December 28, 1916.

My dear Sir:

Yours of the 26th inst. has been received and noted.

There is, in my opinion, no legal objection to your holding the positions of Notary Public and Justice of the

Peace at the same time. There is, however, little reason for holding these two positions, because as Justice of the Peace you can perform practically all of the duties that you would be permitted to perform officially as Notary Public.

Yours very truly,

T. F. WEST,
Attorney General.

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